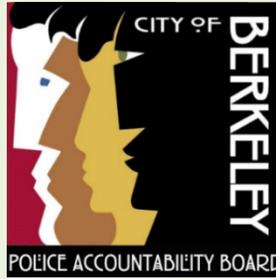


Page numbers for this agenda packet are marked in **blue** to distinguish them from the numbering within individual documents.



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA PACKET  
September 3, 2025  
6:30 PM**

**Board Members**

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Kitty Calavita	Juliet Leftwich
David Williams	Randy Wells
Macharia Edmonds	Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

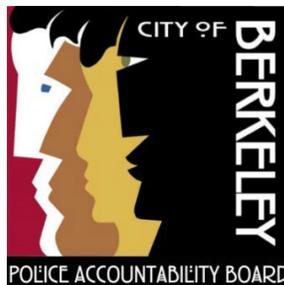
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<b>4.a.</b>	Minutes for the Regular Meeting of July 9, 2025	<b>7</b>
<b>4.b.</b>	Minutes for the Special Meeting of August 7, 2025	<b>14</b>
<b>5</b>	ODPA Memorandum Titled “2025 NACOLE Regional Meeting Series: Bay Area”	<b>18</b>
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### **Off Agenda Reports & Correspondences**

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ITEM 2

SEPTEMBER 3, 2025 PAB REGULAR MEETING AGENDA



**POLICE ACCOUNTABILITY BOARD**  
 REGULAR MEETING AGENDA  
**WEDNESDAY, SEPTEMBER 3, 2025**  
**6:30 P.M.**

**Board Members**

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Kitty Calavita	Juliet Leftwich
David Williams	Randy Wells
Macharia Edmonds	Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
 1900 Addison Street, Floor 3  
 Berkeley, CA 94704

**PUBLIC NOTICE**

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/89174589069>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on “rename” to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **891 7458 9069**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized.

## **LAND ACKNOWLEDGMENT**

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochoy (Chochoy)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

### **AGENDA**

**1. CALL TO ORDER AND ROLL CALL (2 MINUTES)**

**2. APPROVAL OF AGENDA (2 MINUTES)**

**3. PUBLIC COMMENT (TBD)**

*Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on any matter within the Board's jurisdiction at this time, except confidential personnel matters.*

**4. APPROVAL OF MINUTES (5 MINUTES)**

- a. Minutes for the Regular Meeting of July 9, 2025
- b. Minutes for the Special Meeting of August 7, 2025

**5. ODPa STAFF REPORT (10 MINUTES)**

Announcements, updates, and other items.

- Introduction of Esther Fan, ODPa Intern

**6. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)**

The Chair and Board Members report on their activities.

**7. CHIEF OF POLICE'S REPORT (10 MINUTES)**

Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.

## 8. SUBCOMMITTEE REPORTS (10 MINUTES)

Report of activities and meeting schedule for all subcommittees, possible appointment or reassignment of members to subcommittees, and additional discussion and action as warranted for the subcommittees listed on the PAB's Subcommittee List included in the agenda packet.

## 9. DISCUSSION AND ACTION ITEMS (1 HOUR)

- a. Discussion and action on new Policy Complaint 2025-PR-0004 in accordance with Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules (ODPA) – (15 Minutes)
  - i. Preliminary Review Report
  - ii. Complainant's Statement
  - iii. Public Comment
  - iv. BPD Statement
- b. Discussion and action on the proposed wording for the recommended Arrest Quota Policy (Edmonds and Wells) – (15 Minutes)
- c. Discussion and action on the ODPa staff reports submitted for presentation at the September 30 City Council meeting, including deliberation on whether the PAB should provide any supplemental materials (ODPA) – (15 Minutes)
  - i. Report Recommendation 1: Adopt a resolution calling on the California State Legislature to Amend Government Code Section 12519 to allow heads of civilian oversight agencies to directly request investigative assistance from the Attorney General's Office;
  - ii. Report Recommendation 2: Adopt a resolution directing the City Manager to work with the City Attorney's Office to establish a communications policy, corresponding training, and compliance mechanisms to ensure impartiality and neutrality during the pendency of an active personnel investigations
- d. Further discussion and action on Flock Safety Condor Fixed Surveillance Cameras (Cayetano) – (15 Minutes)

## 10. PUBLIC COMMENT (TBD)

*Speakers are generally allotted up to three minutes but may be allotted less time if there are many speakers; they may comment on any matter within the Board's jurisdiction at this time, except confidential personnel matters.*

**11. CLOSED SESSION****CLOSED SESSION ITEMS**

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):

- a. Case Updates and Recommendations Regarding Complaints Received by the ODP:

i. 2023-CI-0016	xi. 2025-CI-0019
ii. 2024-CI-0004	xii. 2025-CI-0020
iii. 2024-CI-0025	xiii. 2025-CI-0021
iv. 2025-CI-0010	xiv. 2025-CI-0022
v. 2025-CI-0013	xv. 2025-CI-0023
vi. 2025-CI-0014	xvi. 2025-CI-0024
vii. 2025-CI-0015	xvii. 2025-CI-0025
viii. 2025-CI-0016	xviii. 2025-CI-0026
ix. 2025-CI-0017	xix. 2025-CI-0027
x. 2025-CI-0018	xx. 2025-CI-0028

**END OF CLOSED SESSION****12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)****13. ADJOURNMENT (1 MINUTE)****Off Agenda Reports**

1. Policy, Practice, and Procedure Review Status Report
2. Legislative Updates Relevant to the PAB's Work
3. List of Pending PAB Requests

### **Communications Disclaimer**

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions, or committees, are public records and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.



#### Communication Access Information (A.R. 1.12)

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

#### SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1900 Addison Street, Floor 3, Berkeley, CA 94704

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### **Contact the Director of Police Accountability (Board Secretary) at:**

1900 Addison Street, Floor 3, Berkeley, CA 94704

TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

Website: <https://berkeleyca.gov/dpa>

Email: [dpa@berkeleyca.gov](mailto:dpa@berkeleyca.gov)

ITEM 4.A.

MINUTES FOR THE REGULAR MEETING OF JULY 9, 2025



**POLICE ACCOUNTABILITY BOARD**  
REGULAR MEETING MINUTES

**WEDNESDAY, JULY 9, 2025**  
**6:30 P.M.**

**Board Members**

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Kitty Calavita	Juliet Leftwich
David Williams	Randy Wells
Macharia Edmonds	Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

**MINUTES**

**1. CALL TO ORDER AND ROLL CALL (2 MINUTES)**

**Present:** Board Member Joshua Cayetano (Chair)  
Board Member Leah Wilson (Vice Chair)  
Board Member Buswell-Charkow  
Board Member Kitty Calavita  
Board Member Macharia Edmonds  
Board Member Juliet Leftwich  
Board Member Randy Wells

**Absent:** Board Member David Williams<sup>1</sup>

**ODPA Staff:** Hansel Aguilar, Director of Police Accountability  
Syed Mehdi, Data Analyst  
Jose Murillo, Policy Analyst  
Daniel Weinberg, Investigative Clerk  
Karim Meleis, YouthWorks<sup>2</sup> Intern

<sup>1</sup> Board Member Williams was granted a leave of absence

<sup>2</sup> Youthworks Program: <https://berkeleyca.gov/community-recreation/community-services/youthworks>

**BPD Staff:** Dunia Ghafori, YouthWorks Intern  
Sgt. Coats

## 2. APPROVAL OF AGENDA

### **Motion to approve the agenda.**

Moved/Second (Calavita/Leftwich) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells.

Noes: None. Abstain: None. Absent: Williams

## 3. PUBLIC COMMENT (TBD)

*2 Physically Present Speakers*

*6 Virtually Present Speakers*

## 4. APPROVAL OF MINUTES (5 MINUTES)

- a. Minutes for the Regular Meeting of June 25, 2025

### **Motion to approve the minutes for the Regular Meeting of June 25, 2025**

Moved/Second (Leftwich/Edmonds) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Williams.

## 5. ODPa STAFF REPORT (10 MINUTES)

Director Aguilar introduced YouthWorks intern Kareem Meleis, who will be entering his junior year at Berkeley High School and hopes to learn more about data analysis during his summer with ODPa. Director Aguilar also reminded the Board of an upcoming NACOLE webinar<sup>3</sup> titled Hate Crimes, Explicit Bias, and Implicit Bias: Evolution of Standards for Decertification of Police Officers in California, scheduled for Wednesday, August 6, 2025, at 2:00 p.m. He also reported that ODPa will begin community demonstration sessions for its VirTra<sup>4</sup> scenario-based training system, typically used by law enforcement and the military. The system will be adapted to educate community members on police interaction scenarios in a safe, controlled environment. Director Aguilar noted similar programs used by other oversight entities and in his own prior experience.

## 6. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)

The Chair welcomed Sergeant Coats, attending the meeting as a representative from the BPD. The Chair reported attending the Mayor's Sanctuary City Task Force meeting, where

<sup>3</sup> NACOLE Webinar Hate Crimes, Explicit Bias, and Implicit Bias: [https://www.nacole.org/past\\_webinars](https://www.nacole.org/past_webinars)

<sup>4</sup> VirTra Scenario-Based Training Simulation: <https://www.eventbrite.com/e/scenario-based-training-demonstration-with-the-odpa-tickets-1462069763019>

the Mayor stated that the draft Sanctuary City Ordinance is expected to be available by the end of July, with a first reading planned for the first City Council meeting in September. Updates will follow, as the Board is considering potential revisions to Policy 415 depending on the ordinance's outcome. The Chair relayed the Police Chief's message regarding protests and the department's values and principles on sanctuary city policing to the task force and the Mayor. The task force expressed interest in having a department representative speak to a segment of the group, and the Chair engaged the Chief on this request. The Chair also reported ongoing meetings with community members and Council members regarding the Board's agenda and priorities. No additional updates were provided by other Board members.

## **7. CHIEF OF POLICE'S REPORT (10 MINUTES)**

Chief Louis reported on recent incidents, operations, staffing, and upcoming City Council items. On July 8, a pedestrian was fatally struck by a vehicle at Claremont Avenue and The Uplands, marking the second pedestrian traffic fatality of the year; the incident is under investigation by BPD's Fatal Accident Investigation Team, and a cross-departmental Vision Zero meeting will be held to identify immediate safety improvements. On July 9, the City conducted a coordinated closure of the Ohlone Park encampment with multiple agencies following 1.5 weeks of outreach, during which eight remaining residents departed voluntarily and approximately 20 unoccupied tents were removed with no arrests or citations issued. Staffing updates included two conditional offers to sworn officer applicants, with recruitment continuing for both sworn officers and dispatchers amid ongoing shortages. Chief Louis also previewed the July 22 City Council agenda, which will include the 2024 Military Equipment Report (prepared in a consolidated format pending possible repeal of the Controlled Equipment Ordinance), an MOU Compendium update addressing federal immigration enforcement, surveillance reports on jail camera replacement and acquisition of Flock fixed cameras, and a joint letter on the Fair and Impartial Policing Report; the Board and Chief discussed the implications of consolidating equipment reports, including how "deployment" and "use" are defined and the potential impact on data reporting.

## **8. SUBCOMMITTEE REPORTS (10 MINUTES)**

The PAB's subcommittees reported on their activities since the last PAB meeting on June 25, 2025.

## **9. DISCUSSION AND ACTION ITEMS (2 HOURS 15 MINUTES)**

- a. Discussion and action on the ODPa's workload and staffing capacity assessment (ODPA) – (20 Minutes)
  - i. Policy Triage, Referrals, and Dispositions (Resource Allocation Proposal)
  - ii. Personnel Triage, Referrals, and Dispositions (Resource Allocation Proposal)<sup>5</sup>

Director Aguilar provided updates on policy triage, referrals, and dispositions. ODPa issued

<sup>5</sup> Specific case matter will not be discussed.

a public statement on the process. The PAB discussed suspension and closure of certain policy reviews.

**Motion to approve staff recommendations to temporarily suspend Policy Review 2487, 2488, 17, 2023-PR-0006, 2023-PR-0009, 2024-PR-0005 and close 2024-PR-0006. Those temporarily suspended would be revisited at the 2026 PAB Planning Session.**

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Williams

- b. Discussion and action regarding the evaluation of PAB subcommittees' capacity and the prioritization of their assignments in consideration of staffing constraints within the ODPa (Wells) – (20 Minutes)

The Board discussed workload and staffing constraints.

**Motion to close Subcommittee review of BPD Policies 1010 & 1034.**

Moved/Second (Cayetano/Calavita) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Williams

- c. Discussion and action on new Policy Complaint 2025-PR-0003 in accordance with Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules (Continued) (ODPA) – (15 Minutes)
  - i. Preliminary Review Report
  - ii. Complainant's Statement
  - iii. Public Comment
  - iv. BPD Statement

The ODPa staff recommended not to accept the Policy Complaint due to staffing limitations contributing to workload restraints.

**Motion to move forward with the staff's recommendation to not accept the policy review.**

Moved/Second (Wilson/Wells) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Williams

- d. Discussion and action on the proposed rescission of the Police Equipment and Community Safety Ordinance (Continued) (ODPA) – (20 Minutes)

Director Aguilar summarized the memo on the discussion with ODPa/BPD; BPD continues to support the rescission of the local ordinance. The board discussed definitions of "deployment" and "use," PAB authority, over-reporting concerns, and training needs.

**Motion to recommend combining the two equipment reports into one Military Equipment Report, adjust the reporting timeline, change “shall review” to “may review” individual deployments/uses (while retaining “shall review” for the full report), delegate to the Chair authority to make minor edits, and keep the PAB open to future ordinance revisions.**

Moved/Second (Calavita/Edmonds) Motion carried.

Ayes: Calavita, Cayetano, Edmonds, Leftwich.

Noes: Wilson, Buswell-Charkow. Abstain: Wells. Absent: Williams

- e. Discussion and action regarding the proposed response to the BPD’s Surveillance Acquisition Report and proposed Use Policies for External Fixed Surveillance Cameras – Flock Safety Condor Video Cameras (ODPA) – (15 Minutes)

The board discussed the procurement process, data-sharing risks, reproductive freedom protections, and retention policy

**Motion to accept the alternative recommendation from ODPa staff and delegate to the Chair and Director to (1) ensure compliance with existing federal law, (2) add language limiting sharing with states that restrict reproductive freedom, and (3) include the data retention policy from the ALPR policy.**

Moved/Second (Wilson/Wells) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Williams

- f. Discussion and action on the 2024 PAB-ODPA Annual Report (ODPA) – (30 Minutes)

Discussion on alignment of report goals, differences in philosophy and statistics, and timeline for submission

**Motion to delegate finalization of the 2024 PAB/ODPA Annual Report to Subcommittee Liaisons & DPA.**

Moved/Second (Buswell-Charkow/Wells) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Williams

- g. Discussion and action regarding Fiscal Year 2026 – 2028 budget cycle oversight and community engagement (Cayetano) – (15 Minutes)

No Formal Action was taken by the PAB. Chair Cayetano proposed proactive planning for the budget cycle, including three community sessions with Council, the City Manager, and BPD. Budget Subcommittee to meet in March 2026.

**10. PUBLIC COMMENT (TBD)**

1 Physically Present Speakers  
0 Virtually Present Speakers

**11. CLOSED SESSION**

<b>CLOSED SESSION ITEMS</b>
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Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):

- a. Case Updates and Recommendations Regarding Complaints Received by the ODPa:

**Motion to administratively close Complaint Number 2024-CI-0003, 2025-CI-0002, 2025-CI-0003, 2025-CI-0006, 2025-CI-0007, 2025-CI-0008, 2025-CI-0009, 2025-CI-0016**

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Calavita, Cayetano, Edmonds, Leftwich, Wells, and Wilson.

Noes: Buswell-Charkow. Abstain: None. Absent: Williams

<b>END OF CLOSED SESSION</b>
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**12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)**

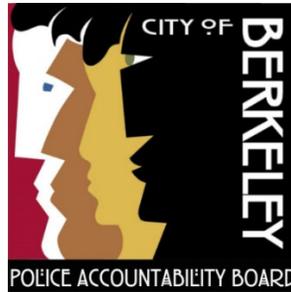
Chair Cayetano announces the closed session activities.

**13. ADJOURNMENT (1 MINUTE)**

Motion to adjourn. Moved/Second (Leftwich/Wells). The meeting was adjourned at 10:57 PM by unanimous consent.

ITEM 4.B.

MINUTES FOR THE SPECIAL MEETING OF AUGUST 7, 2025



**POLICE ACCOUNTABILITY BOARD  
SPECIAL MEETING MINUTES  
THURSDAY, AUGUST 7, 2025  
6:45 PM**

**Board Members**

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Kitty Calavita	Juliet Leftwich
David Williams	Randy Wells
Macharia Edmonds	Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

**Minutes**

**1. CALL TO ORDER AND ROLL CALL (1 MINUTES)**

**Present:** Board Member Joshua Cayetano (Chair)  
Board Member Leah Wilson (Vice Chair)  
Board Member Buswell-Charkow  
Board Member Kitty Calavita  
Board Member Juliet Leftwich  
Board Member Randy Wells

**Absent:** Board Member David Williams  
Board Member Macharia Edmonds<sup>1</sup>

**ODPA Staff:** Hansel Aguilar, Director of Police Accountability  
Syed Mehdi, Data Analyst  
Jose Murillo, Policy Analyst  
Daniel Weinberg, Investigative Clerk

**BPD Staff:** Lt. Bonaventure

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<sup>1</sup> Leave of Absence

## 2. APPROVAL OF AGENDA

### Motion to approve the agenda.

Moved/Second (Leftwich/Wilson) Motion carried.

Ayes: Buswell-Charkow, Calavita, Cayetano, Leftwich, Wells, and Wilson.

Noes: None. Abstain: None. Absent: Edmonds and Williams.

## 3. PUBLIC COMMENT (TBD)

0 Physically Present Speakers

1 Virtually Present Speakers

## 4. CLOSED SESSION (45 MINUTES)

### CLOSED SESSION ITEMS

*Pursuant to the Court's order in Berkeley Police Association v. City of Berkeley, et al., Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):*

- a. **Discussion and action on ODPa Complaint Number 2025-CI-0010 (ODPA)**  
– (15 Minutes)

### **Motion to accept the ODPa's findings in ODPa Complaint Number 2025-CI-0010.**

Moved/Second (Cayetano/Wilson) Motion carried.

Ayes: Buswell-Charkow, Calavita, Leftwich, Wells, and Wilson.

Noes: Cayetano. Abstain: None. Absent: Edmonds and Williams.

- b. **Discussion and action on ODPa Complaint Number 2025-CI-0011 (ODPA)**  
– (15 Minutes)

### **Motion to administratively close ODPa Complaint Number 2025-CI-0011.**

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Buswell-Charkow, Calavita, Leftwich, Wells, and Wilson.

Noes: Cayetano. Abstain: None. Absent: Edmonds and Williams.

- c. **Discussion and action on ODPa Complaint Number 2025-CI-0020 (ODPA)**

No action was taken by the PAB. Director Aguilar provided status updates on the case.

### END OF CLOSED SESSION

## 5. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)

The Chair and Board Members provide updates on their activities since the previous meeting, with Chair Cayetano offering specific updates on surveillance technology recently adopted by the Council, which incorporated some of the PAB's recommendations.

## 6. DISCUSSION AND ACTION ON THE 2024 PAB-ODPA ANNUAL REPORT (ODPA)

ODPA staff presented an overview of the 2024 ODPa-PAB Annual Report. PAB members asked questions and provided feedback for staff to incorporate. The related discussion is available at 00:15:00 – 01:01:00 in the meeting recording.<sup>2</sup>

**Motion to approve the 2024 Annual Report, delegating to staff the authority to make technical corrections and additional edits consistent with the Board's discussion as deemed appropriate by the Director.**

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Wells, and Wilson.

Noes: None. Abstain: Buswell-Charkow. Absent: Edmonds and Williams.

## 7. FURTHER DISCUSSION AND ACTION ON BMC 2.100 "POLICE EQUIPMENT AND COMMUNITY SAFETY ORDINANCE" (Cayetano)

Chair Cayetano updates the PAB on the City Council's Public Safety Policy Committee's actions and decisions regarding the proposed rescission of the Police Equipment and Community Safety Ordinance,<sup>3</sup> as discussed at their July 21, 2025 regular meeting.<sup>4</sup>

## 8. PUBLIC COMMENT

*0 Physically Present Speakers*

*0 Virtually Present Speakers*

## 9. ADJOURNMENT

Motion to adjourn. Moved/Second (Leftwich/Cayetano). The meeting was adjourned at 8:50 pm by unanimous consent.

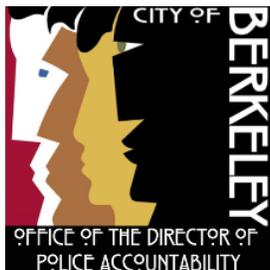
<sup>2</sup> PAB August 7, 2025 Special Meeting: <https://youtu.be/Co3zdZshodU?si=NDMQgAqzKWDjJSdM&t=936>

<sup>3</sup> BMC 2.100 Police Equipment and Community Safety Ordinance: <https://berkeley.municipal.codes/BMC/2.100>

<sup>4</sup> July 21, 2025 Public Safety Policy Committee Meeting: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-07-21%20Annotated%20Agenda%20Public%20Safety.pdf>

ITEM 5

ODPA MEMORANDUM TITLED "2025 NACOLE REGIONAL  
MEETING SERIES: BAY AREA"



## MEMORANDUM

Date: August 29, 2025

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel A. Aguilar, Director of Police Accountability (DPA)   
 Syed Mehdi, ODPa Data Analyst  
 Jose Murillo, ODPa Policy Analyst  
 Daniel Weinberg, Investigative Clerk

Subject: 2025 NACOLE Regional Meeting Series: Bay Area

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This memorandum provides a summary of the Office of the Director of Police Accountability's participation in the 2025 NACOLE<sup>1</sup> Regional Meeting, held in San Francisco, California. The conference provided key insights on civilian oversight, emerging technologies, and community-informed practice strategies, and identifies relevant opportunities for our agency's growth and adaptation

### **Background:**

The 2025 NACOLE Regional Meeting Series: Bay Area, held on August 27–28, 2025, in partnership with the California Civilian Oversight Alliance, brought together oversight practitioners, community members, justice system stakeholders, and academics. The event focused on critical issues in civilian oversight of law enforcement and provided opportunities for training, networking, and collaboration. The conference program<sup>2</sup> covered the following topics:

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<sup>1</sup> 2025 NACOLE Regional Meeting Series: Bay Area: <https://web.cvent.com/event/b031cdfd-00d3-4416-bfbe-635868858f9d/summary>

<sup>2</sup> 2025 NACOLE Regional Meeting Agenda: <https://web.cvent.com/event/b031cdfd-00d3-4416-bfbe-635868858f9d/websitePage:f299e44c-90b8-4d8a-9585-983d9d0ee3ce>

### August 27<sup>th</sup> Topics

- Integrating AI Tools into Policing and Investigations
- Using AI to Enhance Law Enforcement Oversight
- Legal and Ethical Considerations for Powerful Tool
- Implementing Safeguards and Creating Responsible Policies

### August 28<sup>th</sup> Topics

- Models for Communications and Engagement from Oversight Agencies
- Immigration and the Intersection Between Law Enforcement Actions at the State and Federal Levels and their Impact on Civil Rights
- RIPA Data and Audit Implications
- Addressing Diminished Support for Civilian Oversight Agencies

The ODPa was represented by Director Aguilar, Policy Analyst Jose Murillo, Data Analyst Syed Mehdi, and Investigative Clerk Dan Weinberg. In addition, Policy Analyst Murillo served as a panelist on the discussion addressing diminished support for civilian oversight agencies.

ITEM 5  
ODPA INTERN BIO



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## *ESTHER FAN, 2025-2026 INTERN*

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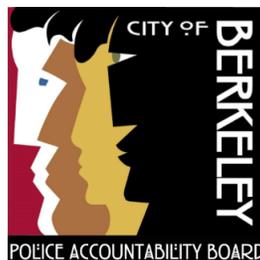


Esther Fan is a senior at UC Berkeley, majoring in Sociology and Social Welfare with a minor in Public Policy. They are deeply committed to pursuing a career in public service and policy, with a particular focus on advancing equity and expanding access to education and social support. Esther is thrilled to join the Office of the Director of Police Accountability (ODPA) as an intern and looks forward to contributing to the team while gaining valuable hands-on experience.

Esther will undertake a year-long internship with the ODPA through its partnership with the UC Berkeley Public Service Center (PSC), a central hub for civic engagement that connects students with community organizations to promote social justice, equity, and experiential learning. For more information about the PSC and its programs, visit [publicservice.berkeley.edu](https://publicservice.berkeley.edu).

ITEM 8  
PAB SUBCOMMITTEE LIST

Updated on 8/29/2025



## SUBCOMMITTEES LIST

Subcommittee	Board Members	Chair	BPD Reps
<b>Regulations</b> Formed 7-7-21 Renewed 6-7-2023	Calavita Leftwich  <u>Public members:</u> Kitt Saginor	N/A	Chief Louis
<b>Policy Reviews</b> Formed 11-08-2023 Scope Expanded 12-11-2024 to include BWC Policy Review	Leftwich Cayetano  <u>Public members:</u> Kitt Saginor	Leftwich	Deputy Chief Tate Sgt. Rafferty
<b>Metrics &amp; Operations</b> Formed 02-05-2025 after the Budget & Metrics and Operations & Processes Subcommittees were consolidated into one	Wilson Wells	N/A	N/A
<b>Outreach &amp; Engagement</b> Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Commendations"	Cayetano Wells	N/A	N/A
<b>Arrest Quota Prohibition</b> Formed 5-21-2025	Edmonds Wells	TBD	TBD

Updated on 8/29/2025

<b>Policies and Practices on Encampment Clearances</b> Former 6-25-2025	Cayetano Wells Wilson	TBD	TBD
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**LIAISON LIST<sup>1</sup>**

<b>Liaison Name</b>	<b>Assignment</b>
Cayetano	Represent the PAB in the EIS Update Process
Wilson	Represent the PAB in FIP-related matters

**POLICY COMPLAINTS ASSIGNED TO INDIVIDUAL BOARD MEMBERS<sup>2</sup>**

<b>Policy Review Number</b>	<b>Assigned Board Member</b>
2025-PR-0001	<b>Calavita</b>
2025-PR-0004	<b>Calavita</b>

<sup>1</sup> Liaison list does not include topics that were originally assigned to a Board Member but later assigned to a subcommittee.

<sup>2</sup> This list does not include policy complaints that were originally assigned to an individual Board Member but later assigned to a subcommittee.

ITEM 9.A.

ODPA PRELIMINARY REPORT FOR POLICY COMPLAINT 2025-PR-  
0006



## MEMORANDUM

Date: August 29, 2025  
 To: Honorable Members of the Police Accountability Board (PAB)  
 From: Hansel A. Aguilar, Director of Police Accountability (DPA) *HA*  
 Jose D. Murillo, Policy Analyst  
 Subject: Notice of Policy Complaint No. 2025-PR-0006

The purpose of this memorandum is to introduce Policy Complaint Number 2025-PR-0006 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.<sup>1</sup>

### Background:

On August 9, 2025, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2025-PR-0006 from a member of the public (see Attachment 1). The Complainant alleges that the Berkeley Police Department has failed to enforce federal prohibitions on auxiliary LED vehicle flashing lights.

According to the complaint, such lights—commonly used on police, fire, ambulance, tow, and utility vehicles—are excessively bright, impair federally required lighting equipment, and pose risks to health, safety, and civil rights. The Complainant cites federal statutes (49 U.S.C. § 30122(b) and 49 C.F.R. 571.108) and National Highway Traffic Safety Administration (NHTSA) interpretations supporting the prohibition, and requests that the Police Accountability Board investigate the Berkeley Police Department's alleged non-enforcement. Supporting documentation from the Soft Lights Foundation was provided to explain how auxiliary LED warning lamps are hazardous, dangerous, discriminatory and illegal (see Attachments 2 and 3).

<sup>1</sup> Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:  
[https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard\\_StandingRules.pdf](https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf)

### Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the Police Accountability Board (PAB) is authorized to “review policies, practices, and procedures of the Police Department at its discretion, at the request of a member of the public, in response to a policy complaint, or following a public complaint against an officer.”

Upon cursory review by the ODPa, it appears the Berkeley Police Department does not maintain a policy specifically addressing LED light equipment violations. Instead, BPD follows a comprehensive traffic enforcement strategy centered on overall roadway safety through a three-pronged approach. This strategy emphasizes: (1) Primary Collision Factors (PCFs)—including unsafe speeding, pedestrian right-of-way violations, red-light violations, and other behaviors shown to be the leading causes of severe and fatal collisions; (2) Community Reports—traffic safety concerns raised by residents, such as unsafe driving behaviors and vehicle-related crimes; and (3) Community Caretaking—addressing additional safety issues like distracted driving, DUI, and seatbelt violations that, while not always listed as primary collision factors, significantly contribute to serious crashes.

In line with Berkeley’s Vision Zero initiative, which aims to eliminate traffic fatalities and severe injuries, BPD relies on collision data, service calls, and community feedback to guide enforcement, education, and prevention efforts. Within this framework, LED light auxiliary equipment violations are treated as low-level infractions and are not prioritized as a basis for enforcement stops. If the PAB chooses to undertake this review, it could examine the practices surrounding the enforcement—or non-enforcement—of auxiliary LED lights by BPD.

### Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action<sup>2</sup>, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPa staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.

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<sup>2</sup> Section G(3)(a) "Policy Complaints and Reviews" of the PAB's Standing Rules:  
[https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard\\_StandingRules.pdf](https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf)

5. Temporarily deferring acceptance of the policy complaint and instructing ODPA staff to investigate the matter.
6. Rejecting the policy complaint.

**Recommendation:**

The ODPA defers to the PAB's assessment regarding the acceptance or rejection of this policy complaint. The PAB should evaluate whether this policy review aligns with the broader policy objectives and work plan goals.

**Attachments:**

1. Policy Complaint 2025-PR-0006 with submitted attachments.

# Policy/Practice/Procedure Form



Tracking Number **ODPA-250820-431310**

Created by [REDACTED] | August 20, 2025 | Original version

## Personal Information

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### Basic Information

Email	[REDACTED]
First Name	[REDACTED]
Last Name	[REDACTED]
Phone	Not Specified
File Anonymously	Not Specified
Work Telephone	Not Specified

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### Mailing Address

Street name	[REDACTED]
Apt/Unit	Not Specified
State	[REDACTED]
City	[REDACTED]
Zip Code	[REDACTED]

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Occupation	[REDACTED] Soft Lights Foundation
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### Demographics

Please provide as many details about the incident as possible. Your recollection about the incident is invaluable.

Date of Birth	Not Specified
Race/Ethnicity	Not Specified
Ethnicity	Not Specified
Gender	Not Specified
Race	Not Specified
Sexual Orientation	Not Specified

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Gender	Not Specified
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## Incident Details

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### Statement

See letter with the subject line re "Request for Enforcement - Illegal Auxiliary LED Vehicle Warning Lamps"

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Location of Incident (if applicable) Not Specified

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Date of Incident (if applicable) Not Specified

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Time of Incident (if applicable) Not Specified

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What changes to BPD policy, practice, or procedure do you propose? The Soft Lights Foundation hereby requests that the Police Accountability Board investigate the city of Berkeley Police Department's decision not to enforce the prohibition of auxiliary LED vehicle flashing lights which put the health, safety, and civil rights of first responders and the public at risk.

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## Additional Information

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Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.) Not Specified

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Upload Document 3 file(s) uploaded

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### Incident External Links

Link 1 <http://www.softlights.org/>

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### How Did You Hear About Us

Not Specified

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August 9, 2025

**BY EMAIL**

Police Accountability Board  
Berkeley, California  
dpa@berkeleyca.gov

**Re: Request for Enforcement - Illegal Auxiliary LED Vehicle Warning Lamps**

Dear Police Accountability Board,

Federal law prohibits the installation of auxiliary vehicle lighting equipment that impairs the effectiveness of federally required lighting equipment. That National Highway Traffic Safety Administration ("NHTSA") has published multiple Letters of Interpretation making clear that excessively bright auxiliary warning lamps are illegal. Light Emitting Diode ("LED") auxiliary flashing lights such as those used on police cars, fire trucks, ambulances, tow trucks, and utility vehicles meet the criteria for excessive brightness, and thus the installation and operation of LED auxiliary vehicle flashing lights is prohibited by federal law.

To date, there has been no enforcement of the prohibition of auxiliary LED vehicle flashing lights, and thus the health, safety, and civil rights of first responders and the public have been put at risk. The Soft Lights Foundation requests intervention by the Police Accountability Board.

49 U.S.C. § 30122(b) states, "A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative."

49 C.F.R. 571.108(S6.2.1) states, "No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by this standard."

In a December 13, 2024, Letter of Interpretation, NHTSA wrote, "The use of flashing amber lights is not sufficiently established and standardized to avoid unduly diverting driver attention or causing confusion. Thus, we continue to believe these lights impair required lighting equipment."

In a September 9, 2019, Letter of Interpretation, NHTSA wrote, ““NHTSA interprets the impairment provision to prohibit auxiliary lamps that are so bright as to obscure or distract from a vehicle’s required lamps.”

The Soft Lights Foundation has created two documents, included with this letter, which describe in more detail how auxiliary LED warning lamps are hazardous, dangerous, discriminatory, and illegal.

The Soft Lights Foundation hereby requests that the Police Accountability Board investigate the city of Berkeley Police Department’s decision not to enforce the prohibition of auxiliary LED vehicle flashing lights which put the health, safety, and civil rights of first responders and the public at risk.

Sincerely,

[REDACTED]  
[REDACTED]  
Soft Lights Foundation  
[REDACTED]

## Vehicle Flashing Light Regulations in California By Soft Lights Foundation



### Federal Law Prohibits Emergency Flashing Lights on Vehicles

The National Highway Traffic Safety Administration (“NHTSA”) codifies its concerns about the safety impacts of auxiliary flashing lights in the following regulation in the Federal Motor Vehicle Safety Standards (“FMVSS”) Section 108.

49 C.F.R. § 571.108(S6.2.1): No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by this standard.

To clarify NHTSA’s intent in publishing 49 C.F.R. § 571.108(S6.2.1), NHTSA published a Letter of Interpretation on December 13, 2024, which confirms that the installation of any type of auxiliary emergency warning lamp that impairs the effectiveness of original lighting equipment is illegal by stating:

*Therefore, because the “emergency warning lights” are not steady burning, they would not comply with FMVSS No. 108 and would impair required lighting.*<sup>1</sup>

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<sup>1</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

49 U.S. Code § 30122 prohibits companies from installing lighting that makes the original lighting equipment inoperative.

49 U.S. Code § 30122(b): A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

In the same December 13, 2024, Letter of Interpretation, NHTSA clarified that the “make inoperative” provision of 49 U.S. Code § 30122(b) prohibits manufacturers, distributors, dealers, rental companies, and repair businesses from installing auxiliary vehicle flashing lights by stating:

*After carefully considering your letter, we reaffirm our previous interpretations that, under current law, “emergency warning lights” may not be installed as original equipment and that persons subject to the make inoperative provision of the Safety Act may not legally install the lamps as original or aftermarket equipment.*

Therefore, the installation of auxiliary vehicle flashing lights is illegal.

## California Regulations

California regulates warning lamps on vehicles via the California Vehicle Code which contains statutes enacted by the California Legislature, and Title 13 of the California Code of Regulations which are regulations promulgated by the California Highway Patrol. The Supremacy Clause of the U.S. Constitution establishes that Federal law has precedence over State laws and regulations. Thus, as shown in the preceding paragraphs, since federal law prohibits auxiliary vehicle flashing lights, California statutes and regulations cannot override the federal prohibitions. Nonetheless, California has enacted its own statutes and regulations which would apply if federal law were ruled unenforceable.

Cal Veh. Code § 25250 prohibits all vehicle flashing lights except those flashing lights which are explicitly permitted.

Cal Veh. Code § 25250: Flashing lights are prohibited on vehicles except as otherwise permitted.

Cal. Veh. Code § 24005 prohibits the sale and installation of non-confirming vehicle lighting equipment.

Cal Veh. Code § 24005: It is unlawful for any person to sell, offer for sale, lease, install, or replace, either for himself or as the agent or employee of another, or through such agent or employee, any glass, lighting equipment, signal devices, brakes, vacuum or pressure hose, muffler, exhaust, or any kind of equipment whatsoever for use, or with knowledge that any such equipment is intended for eventual use, in any vehicle, that is not in conformity with this code or regulations made thereunder.

Cal. Veh. Code § 25253 requires tow trucks to be equipped with amber warning lamps. This is a problematic statute since federal law explicitly prohibits amber auxiliary warning lamps and since it is illegal to install non-compliant vehicle lighting equipment. Because Cal. Veh. Code § 25253 only requires

that tow trucks be equipped with amber warning lamps, but does not require the operation of the lamps, the only true conflict is the installation issue. In any event, since federal law preempts state law, amber warning lamps are not permitted on tow trucks.

Cal. Veh. Code § 25253 (a) Tow trucks used to tow disabled vehicles shall be equipped with flashing amber warning lamps. This subdivision does not apply to a tractor-trailer combination.

Cal. Veh. Code § 25259 authorizes amber warning lights, but this authorization is discretionary and subject to all other legal restrictions. Since federal law prohibits amber warning lights and since the California Code of Regulations does not permit amber flashing lights (as described below), Cal. Veh. Code § 25259 is rendered moot.

Cal Veh. Code § 25259: (a) Any authorized emergency vehicle may display flashing amber warning lights to the front, sides, or rear.

Cal. Code of Regs. Title 13 § 812 defines classes of warning lamps. Light Emitting Diodes (“LED”) emit a high intensity, concentrated beam of light, and therefore LED warning lamps are Class A.

Cal. Code of Regs. Title 13 § 812:  
Five classes of warning lamps are established as follows:

- Class A: High intensity, concentrated-beam lamp
- Class B: Moderate intensity, wide-beam lamp
- Class C: High intensity, wide-beam lamp
- Class D: Motorcycle front warning lamp
- Class E: Revolving, oscillating, or gaseous discharge lamp

Cal. Code of Regs. Title 13 § 816 permits the following colors for warning lamps: red, blue, yellow. White and amber are not permitted.

Cal. Code of Regs. Title 13 § 816:  
Warning lamps shall meet the following limits in SAE J578d, September 1978. The color shall be that of the emitted light, not that of the material used for the lens or filter.

- (a) Class A and D Warning Lamps: Red
- (b) Class B, C, and E Warning Lamps: Red, yellow, or blue.

Cal. Code of Regs. Title 13 § 817 establishes the minimum intensity levels for the permitted colors of red, yellow, and blue. Since LEDs are categorized as Class A, the only permitted color for LED warning lamps is red. Blue, white, amber, and yellow LED warning lamps are not permitted.

Cal. Code of Regs. Title 13 § 817:  
(a) Steady-burning Warning Lamps. Steady-burning warning lamps, and flashing warning lamps which alternate between on and off by electrically controlling the current supplied to the lamp, shall meet the requirements in Table I.

TABLE I. MINIMUM CANDELA FOR STEADY-BURNING WARNING LAMPS AND FLASHING WARNING LAMPS WHICH ALTERNATE BETWEEN ON AND OFF BY ELECTRICALLY CONTROLLING THE CURRENT

Test point coordinates		Class A Lamps		Class B Lamps		Class C Lamps		Class D Lamps	
Vertical	Horizontal	Red	Red	Yellow	Blue	Red	Yellow	Blue	Red
	5L	15	20	50	10	10	25	5	5

## Light Emitting Diode Flashing Lights

The switch to LED flashing lights has exacerbated the hazards and dangers of using auxiliary flashing lights on vehicles. LEDs emit an excessively intense light, and the digital nature of the flashing makes LEDs more hazardous than many other types of flashing lights.

The Food and Drug Administration (“FDA”) is mandated by 21 U.S.C. 360ii to establish and maintain a liaison with NHTSA to test and evaluate LED flashing lights but has failed to do so. As a result, the FDA has not published performance standards for LED flashing lights to ensure the health, safety, and civil rights of the public.

The metric for the intensity of light that shines directly into a person’s eye is called “luminance”. Government agencies have failed to set any limits on luminance to ensure eye safety.

*“NHTSA interprets the impairment provision to prohibit auxiliary lamps that are so bright as to obscure or distract from a vehicle’s required lamps.”<sup>2</sup>*

LED flashing lights are so bright that they undoubtedly obscure or distract from the vehicle’s required lamps, as shown in the example images below.



<sup>2</sup> <https://www.nhtsa.gov/interpretations/571108-ama-schaye-front-color-changing-light>



## Safety Research

In the December 13, 2024, Letter of Interpretation, NHTSA wrote:

*“NHTSA has long believed that flashing amber lighting can unduly divert driver attention and cause confusion among drivers, even among those who have seen them before.”*

The study titled “Effects of Emergency Vehicle Lighting Characteristics on Driver Perception and Behavior” showed that high intensity lights impair vision.

*“The results indicate that higher intensity lights were judged consistently as more glaring...”<sup>3</sup>*

Thus, high intensity flashing lights such as those that use LED technology will impair the effectiveness of federally required lighting equipment. High intensity flashing lights create a safety hazard.

An April 17, 2024, research paper titled “High visual salience of alert signals can lead to a counterintuitive increase of reaction times”, demonstrates exactly what occurs when a public entity uses auxiliary LED flashing lights.

*“However, increasing visual salience did not yield similar benefits: instead, it increased the time between fixating the alert and responding, as high-salience alerts interfered with alert-task execution.”<sup>4</sup>*

Flashing lights are dangerous and increase the risk of injury or death because the flashing lights “interfere with alert-task execution”. In other words, exactly when the driver needs to be alert and avoid the vehicle with the flashing lights, the use of the flashing lights interferes with vision and cognitive functioning, leading to an increased risk of crash.

## Health Impacts

The research article titled “Accidental macular injury from short-term exposure to a handheld high-intensity LED light” details an eye injury from exposure to a flashing Light Emitting Diode (“LED”).<sup>5</sup>

The research article titled, “Visually sensitive seizures: An updated review by the Epilepsy Foundation” describes how flashing lights can trigger seizures for individuals with epilepsy.

*“Images with flashes brighter than 20 candelas/m<sup>2</sup> at 3-60 (particularly 15-20) Hz occupying at least 10 to 25% of the visual field are a risk, as are red color flashes or oscillating stripes.”<sup>6</sup>*

An in-depth March 2, 2025, research article titled International Guidelines for Photosensitive Epilepsy: Gap Analysis and Recommendations confirms that any change in luminance of greater than 20 cd/m<sup>2</sup> creates a risk of seizure, and that the color red is particularly hazardous.<sup>7</sup> Auxiliary LED flashing lights are hundreds or thousands of times more intense than 20 cd/m<sup>2</sup> which is why individuals with epilepsy, migraines, photophobia, and autism have reported epileptic and non-epileptic seizures from exposure to LED flashing lights.

The intensity of a directly-viewed light source is measured by the metric “luminance” in candela per square meter or nit. The human eye has a bi-convex lens that recreates the luminance on the retina, which in turn sends intensity signals to the brain. The following are typical luminance levels for reference:

**Comfort level:** 1-100 cd/m<sup>2</sup>

<sup>3</sup> <https://www.respondersafety.com/Download.aspx?DownloadId=f31a5f73-7b95-44c7-bd25-1e4cdfce5229>

<sup>4</sup> <https://www.nature.com/articles/s41598-024-58953-4>

<sup>5</sup> <https://pmc.ncbi.nlm.nih.gov/articles/PMC10404656/>

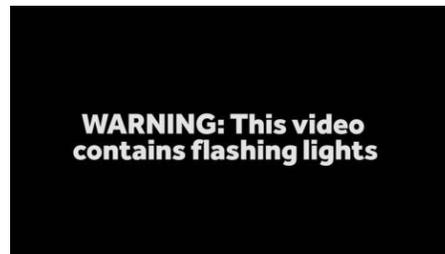
<sup>6</sup> <https://onlinelibrary.wiley.com/doi/10.1111/epi.17175>

<sup>7</sup> <https://pmc.ncbi.nlm.nih.gov/articles/PMC11872230/>

**Epilepsy seizure risk threshold for flashing lights:** 20 cd/m<sup>2</sup>  
**Typical discomfort level:** 1,500-2,400 cd/m<sup>2</sup>  
**Photophobia discomfort level:** 100-1,000 cd/m<sup>2</sup>  
**Maximum tolerance level:** 10,000-50,000 cd/m<sup>2</sup>  
**Auxiliary LED vehicle flashing lights:** 1,500-100,000 cd/m<sup>2</sup>

LED flashing lights on vehicles are likely to trigger seizures due to their high luminance.

Movies that use flashing lights sometimes post warnings, such as the one below from Incredibles 2.<sup>8</sup> Thus, it is well known that flashing lights can trigger seizures in individuals who are photosensitive, and yet cities are using auxiliary LED flashing lights on city vehicles, even though these lights are illegal and known to be a significant health risk.



Many reports of neurological and psychological trauma have been reported to the FDA from exposure to LED flashing lights. (Appendix A).

## Conclusion

Due to lack of enforcement, auxiliary flashing lights on vehicles are everywhere. However, unless and until the federal government modifies federal regulations, auxiliary flashing lights on vehicles are prohibited. Given the knowledge that auxiliary flashing lights create a health and safety hazard and given that they are illegal under federal law, all government agencies and businesses should direct staff to immediately refrain from using auxiliary vehicle flashing lights.

August 4, 2025

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<sup>8</sup> <https://www.wbaltv.com/article/theaters-post-warnings-after-disney-says-incredibles-2-scene-could-cause-seizures/21600147>

## Appendix A – NHTSA Letters of Interpretation

49 C.F.R. § 571.108(S6.2.1): No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by this standard.

**December 13, 2024** - *"NHTSA has long believed that flashing amber lighting can unduly divert driver attention and cause confusion among drivers, even among those who have seen them before."*<sup>9</sup> – Amber auxiliary flashing lights are illegal.

**December 13, 2024** - *"Flashing amber lighting, except for turn signal lamps, is not "an established lighting scheme." within the context of FMVSS No. 108."*<sup>10</sup> – Amber auxiliary amber flashing lights are illegal.

**December 13, 2024** - *"The use of flashing amber lights is not sufficiently established and standardized to avoid unduly diverting driver attention or causing confusion. Thus, we continue to believe these lights impair required lighting equipment."*<sup>11</sup> - Amber auxiliary amber flashing lights are illegal.

**December 13, 2024** – *"Therefore, because the "emergency warning lights" are not steady burning, they would not comply with FMVSS No. 108 and would impair required lighting."*<sup>12</sup>- *[Nothing in this letter is intended to conflict with our interpretation, stated in our May 2, 2003, Letter to Lt. Col. Steve Flaherty, that deference to states applies to "the installation and use of emergency lighting devices on [the state's] vehicles."]* – Emergency warning lights that flash on vehicles such as on tow trucks, utility vehicles, and private ambulances are illegal. However, this letter muddles this situation with municipally-owned and state-owned emergency vehicles such as police, fire, and ambulance and conflicts with NHTSA's September 9, 2019 interpretation that all auxiliary flashing lights are illegal.

**September 9, 2019** - *"Moreover, NHTSA continues to believe that flashing auxiliary lamps would impair the effectiveness of required lamps by distracting or confusing other road users."*<sup>13</sup> – All auxiliary flashing lamps are illegal.

**September 9, 2019** – *"NHTSA interprets the impairment provision to prohibit auxiliary lamps that are so bright as to obscure or distract from a vehicle's required lamps."*<sup>14</sup> – The extreme luminance of LED flashing lights and the reports of vision impairment by the public demonstrate that all LED auxiliary flashing lights are illegal.

<sup>9</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

<sup>10</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

<sup>11</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

<sup>12</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

<sup>13</sup> <https://www.nhtsa.gov/interpretations/571108-ama-schaye-front-color-changing-light>

<sup>14</sup> <https://www.nhtsa.gov/interpretations/571108-ama-schaye-front-color-changing-light>

**May 2, 2003** – *“We see no reason to question the judgment of the State in allowing strobe lights on fire vehicles, if such legislation is enacted in Virginia.”*<sup>15</sup> – This opinion is superseded in 2019 and 2024, when NHTSA states that all auxiliary flashing lights impair the effectiveness of required lamps. The 2001 and 2003 letters are an anomaly when compared with all other NHTSA letters, where NHTSA states repeatedly that NHTSA’s core belief is that auxiliary flashing lights pose a risk to safety.

**July 3, 2001** - *“We want to allow States to install and use strobe lights on unmarked vehicles yet we do not think it in the interest of safety to allow the general public to do the same on virtually identical vehicles.”*<sup>16</sup> – This statement is contradictory to nearly all of NHTSA’s other Letters of Interpretation.

**July 3, 2001** - *“Under Federal law (49 U.S.C. 30122), the State, as the owner of a vehicle, may itself modify the vehicle after its purchase even if this modification results in a noncompliance with a Federal motor vehicle safety standard.”*<sup>17</sup> – NHTSA thus interprets the “owner” of a vehicle to include the State. However, a State employee would need to perform the actual work. The State may not hire a contractor, vendor, or dealer to install illegal lighting equipment.

**May 1, 1986** - *“However, Standard No. 108 does prohibit installation of any aftermarket lighting device before initial sale of a new vehicle if that device “impairs the effectiveness” of lighting equipment that the standard requires, and you should be aware of this prohibition if you intend to sell the device to new car dealers for installation on new cars in stock.”*<sup>18</sup> – Installing auxiliary flashing lights at any point after the manufacture of the original equipment is illegal.

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## Appendix B – LED Incident Reports

The following incident reports involving vehicle flashing lights have been submitted to the U.S. Food and Drug Administration via the Soft Lights Foundation.

July 6, 2025 – Oviedo, FL – Epilepsy

I have to constantly close my eyes where there might be flashing lights or cause me to avoid certain places which puts me in a down mood because I feel like I can't even leave my house due to fear of having a seizure. It can be depressing since your social life is limited. I remember in the past being in a club and I had a seizure because they turn on their strobe lights. I wish they would just be banned completely since they are not good for the eyes and cause so much harm.

April 16, 2025 – Cincinnati, OH – Other

Today's automobiles, specifically SUVs made by Toyota, Hyundai, Kia, Honda and Acura have headlights that are WAY TOO BRIGHT!! When these vehicles come at you on a dark road, their light spread is literally blinding and especially on a rainy night, this has almost caused me to have a crash several times and always I'll see spots for several minutes after encountering one of these cars. I've noticed vision problems as well as increased frequency of headaches as of late and I have changed nothing in my lifestyle other than having greater exposure to these lights. And we shouldn't forget that the light bars on police vehicles and tow trucks are also retina-searing bright. We can see a flashing incandescent beacon on one of these cars from plenty of distance at night. This needs to be a class action suit against the auto manufacturers or the lamp manufacturers.

March 31, 2025 – Cedar Lake, IN – Migraine

I am only 20 years old but I struggle so much with driving at night or on a cloudy day. Basically every single car (since they all have LEDs) blinds me as they drive past. Just looking at the side of the road doesn't work for me. It is impossible for me to see the road or anything else when there is a car with LEDs. It comes at me from cars driving towards me, through the rear view mirror, and the side windows. Also, the flashing LED lights for ambulances/police cars at intersections make me feel nauseous and like I am going to get a migraine. I have suffered from migraines for many years, so I am light sensitive. However, the LED lights are the worst thing for me during the day and night time.

February 17, 2025 – Yolo County, CA – Autism

I was driving east on Hwy 16 towards Woodland, when I noticed intense amber LED flashing lights close to a mile ahead. I started to slow down. As I reached the LED flashing lights, the intensity and digital pulsing was unbearable. There were multiple vehicles. The panic started to set in. I covered my eyes with my hands and slowed to less than 20mph, basically trapped by the LED lights.

I crept forward in my car, blocking nearly everything from my sight except for a narrow sliver of road near the center line that I could see. Major panic started to set in as I passed the vehicles, which turned out to be about 3 Yolo County Sheriff's vehicles. After I passed, I glanced back in my rear view mirror and was struck by red and blue LED flashing lights. I let out a scream of agony. I suffered significant emotional trauma from this event.

January 12, 2025 – Glenside, PA – Photophobia

I had a recent situation in the movie theater while watching "Wicked" that sent me into a blackout paranoid state; after leaving the theater, the oncoming auto lights/traffic lights/police lights just exacerbated the situation. I have no memory of the evening. I went to the emergency room in the morning and blood/urine tests showed no drugs or alcohol. I do not have epilepsy and have no medical

conditions. I have been using candlelight and red lights at night in my home since 2020 and rarely drive (2018 car with only 17,000 miles). I had a similar event about two years ago after watching a TV series that used flashing strobe lights. I have a PhD and have been looking for research and case studies on the topic of the health consequences of light/flashing lights at night. My goal is to 1) figure out what happened to me, and 2) help others who would just attribute this to being “crazy.” Thank you!

November 25, 2024 – Vacaville, CA – Autism

I was driving East on E. Monte Vista Ave. when I struck by the LED flashing lights on an RRFB. Instead of the RRFB making me stop, I start yelling fuck, fuck, fuck, fuck, fuck, fuck as I tilted my head down and drove straight through to escape the LED assault and save my life.

November 22, 2024 – Springfield, MO – Migraine

After a TBI years ago, I am now a migraine sufferer. I cannot look at the flashing or strobe lights without instant pain. It has been so hard to safely pass by emergency vehicles as flashing and LEDs both blind and cause instant splitting pain. Trying to get by a wreck or incident is really really tough while you are trying go around and not hit people or cars in the road. I have literally stopped my car in the middle of the road at night, even on a curve, multiple times because I was so blind I could not see the road, the other vehicle – nothing! It’s as if someone suddenly blindfolded me while driving. How are people navigating this terrible issue? Tonight was a little darker than usual, without a moon, and I was struggling to repeatedly get blinded/see on a long 2-lane rural road. Going over a curvy set of river bridges with rails was terrifying, leaving me blinded for a moment trying to navigate curves. Halfway through the 7-mile trip, the repeated brightness moved to migraine, nausea, and fear I was going to wreck. I was literally wondering what my future holds if I can’t drive to see my kids, or even get home from work safely after dark because of these lights. It feels like no one cares – even insurance companies. They HAVE to know; they drive too! Even LED Christmas lights are too much when flashing. We also been blinded by directly placed LED garage lights on houses recently. It’s like a direct police spotlight at a T-intersection. I can’t see if anyone is coming to the left, due to one homeowners LED beacon staying trained right in my eyes. Tonight, I also made a right turn at a 4-way stop. Because of being blinded mid-turn, I couldn’t tell how close the car waiting to turn was in front of me as I rounded to the next road. Not only did I fear hitting the other car right in the door I heard a sickening crunch as my back tire fell off the road edge and hit much further than the wheel rim.

November 14, 2024 – Mangonui, New Zealand – Migraine

Swimming in a remote lake, 200m from road access, when a car pulled up flashing the red LED tail lights. I felt immediately nauseated and blacked out with brief loss of consciousness for a few seconds. I came quickly to and swam with difficulty back to the shore having developed blurred vision, pain at the occiput, numb left side of face and left arm (hemiplegic migraine).

October 12, 2024 – Esparto, CA – Autism

I was driving behind a vehicle when it suddenly pulled to the side of the road. Coming towards us was an ambulance with LED flashing lights. I felt like I was electrocuted and was going to go unconscious. I instantly closed my eyes and stopped my car. After a few seconds, a car behind me honked, and when I opened my eyes, the ambulance was already gone. Now I’m suffering the psychological after-effects.

October 11, 2024 – Yolo County, CA – Autism

I was driving East on a County road in the day when a vehicle came towards me with intense, rapidly flashing amber LED lights. I felt panic rushing in and put my arms up to block the assault. Since I now couldn’t see the road, I came to a full stop. Then somebody honked a horn. I moved my arms, and saw that the lead truck had passed, but a wide-load mobile home on a truck was inches from the left side of my car. These LED flashing lights are a menace and violation of our civil rights. My anxiety ran high for 30 minutes after the encounter.

September 16, 2024 – Nashville, TN – Other

I have Mast Cell Activation Syndrome. My body produces an allergic reaction to things that wouldn't normally cause anyone else a problem, including LED lights. My brain interprets the rapid flashing light as if there's something attacking my body, resulting in what we call a "histamine dump." Histamine dumps lower blood pressure. But given I have a condition known as Postural Orthostatic Tachycardia Syndrome, which already gives me low blood pressure, the combination of this condition with MCAS histamine dump causes me to go into hypovolemic shock. It causes the worst pain I've ever known, where my brain is screaming for oxygen and nutrients, fading in and out of being hyperaware of how much pain I'm in only to dissociate from it as a way to protect myself from the mental anguish of that pain. I've almost died from this several times. For almost a decade, I exhibited symptoms of hypovolemic shock at the end of nearly every day, only to be told it was a cervicogenic headache or migraine. Now that I'm diagnosed, I'm on a medication to treat it. But that medication isn't strong enough to counteract the effects of extremely bright LED headlights, let alone LED streetlights. Every time I leave the house at night, I get sick. I'm already disabled my multiple chronic conditions. My life is already limited. I don't know how to live life unable to even go outside at night.

September 14, 2024 – Vacaville, CA – Autism

I was driving at dusk when a fire truck or ambulance suddenly appeared with LED lights flashing. I immediately threw both of my arms in front of my face and hit the brakes to stop the car. I thought that this might be the end of my life. The LED flashing lights are sheer terror and I can't function. After the fire truck/ambulance passed by, I felt like I was going to cry from the emotional trauma. My brain then feels like it's dead even hours later.

August 28, 2024 – Esparto, CA – Autism

I was driving and encountered a utility truck with both sets of headlights turned on. I turned on my non-LED high beams in the hope that the driver would turn off the high beams. Instead, the driver turned on amber LED flashing lights that incapacitated me. I was unable to proceed forward and stopped my car. Instead of driving off, the driver of the utility truck stopped also. My vision and cognitive abilities were severely impaired, with panic setting in. Finally, I started to inch forward, and then so did the utility truck. It seems like the driver was doing it on purpose. After he left, I spent several minutes simply stopped in the middle of the road, trying to breathe and let the panic subside.

August 6, 2024 – Winters, CA – Autism

I was driving on a country road in the daytime. Over 1 mile ahead of me was a utility truck on the side of the road with amber LED flashing lights. For the entire mile, I was either glued to these LED flashing lights, or forcing myself to look away. As I approached the truck, the LED strobe lights were overwhelming and I could not see through the lights. I stopped my car in the road and started to panic. I put my hand in front of my right eye, and then tried to use my left eye to navigate around the truck. It is impossible for me to think or see with these LED flashing lights blasting me and I suffer extreme anxiety and panic.

August 3, 2024 – Onsted, MI – Astigmatism

Led headlights (low beams), white led running lights, LED brake lights, emergency flashing Led lights and Led streetlights have adversely affected my ability to drive safely. I do not drive at dusk or Night anymore unless I have to (for work). I live in Michigan with snow covered roads and the most dangerous aspect of driving is being blasted by someone's Led headlights. I cannot use my rear view or side mirrors anymore because of the vehicles behind me blinding my visions with their Led headlights. I have to constantly shield my eyes to be able to see the road due to oncoming Led headlights. I love nature and now my ability to enjoy the Night skies is ruined because of bright Led lights on at night. I never had any problems driving at night prior to Led headlights. Now driving has become a nightmare and a very

dangerous task. Led headlights should be banned or at least some type of regulation regarding luminance and Kelvin temperature. Many Led low beams are much brighter than halogen highbeams. In addition to the dangers of led headlights being dangerous, they cause me headaches and eye pain. It's common knowledge that blue light is detrimental to the health of humans and don't understand why this type of lighting is being used in the public.

August 3, 2024 – Fountain Hills, AZ – None

Apparently the plan to get drivers off the road is working with the BLINDING LED vehicle headlights. The police LED flashing lights are SUPER BLINDING.

August 3, 2024 – Fort Collins, CO – Other

At 74 and having cataract replaced and it is nearly impossible to drive safely with the blinding blue white glaring LED lights. It is so distracting and frustrating I loose my concentration to drive properly. The lights seem to bounce up and down with a blinding flashing impact. Even police vehicles red and blue flashing on the side of the road are so blinding it is difficult and unsafe to go around them. I can't see what is in front of me. The contrast from dark to blinding flashing lights is too much to see what's in front of me.

August 1, 2024 – London, United Kingdom – Other

Council lawnmower with flashing LED lights drove past me while I was walking along the road. I felt immediate severe head pain, nausea and disoriented, and fell into the roadside ditch. I then vomited, climbed out with blurred vision and pounding head.

July 9, 2024 – Mangonui, New Zealand – Migraine

While traveling in the passenger seat along the state highway felt sudden thunderclap pain to the left occiput passing three flashing LED lights on three diggers repairing the road. My left eye began to stream, my speech became slurred, then dysaesthesia to the left side of my face and arm occurred. I felt as though I had a concussion. The symptoms of this hemiplegic migraine event resolved gradually over a three day period.

June 1, 2024 – Fairfield, CA – Autism

During the day, I was driving a vehicle on a freeway when I struck by an LED flashing light from a bicycle on a parallel road. I reactively closed my eyes and then suffered a seizure reaction, which I would describe as like an electrical shock and loss of cognitive functioning and vision. I then had to emotionally fight off a panic attack.

4/21/2024 – Beaverton, OR – Autism

LED flashing lights cause me to suffer severe anxiety, panic attacks, and fear.

## Vehicle Flashing Light Regulations in the U.S.A. By Soft Lights Foundation



### Federal Law Prohibits Emergency Flashing Lights on Vehicles

The National Highway Traffic Safety Administration (“NHTSA”) codifies its concerns about the safety impacts of auxiliary flashing lights in the following regulation in the Federal Motor Vehicle Safety Standards (“FMVSS”) Section 108.

49 C.F.R. § 571.108(S6.2.1): No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by this standard.

To clarify NHTSA’s intent in publishing 49 C.F.R. § 571.108(S6.2.1), NHTSA published a Letter of Interpretation on December 13, 2024, which confirms that the installation of any type of auxiliary emergency warning lamp that impairs the effectiveness of original lighting equipment is illegal by stating:

*Therefore, because the “emergency warning lights” are not steady burning, they would not comply with FMVSS No. 108 and would impair required lighting.*<sup>1</sup>

<sup>1</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

49 U.S. Code § 30122 prohibits companies from installing lighting that makes the original lighting equipment inoperative.

49 U.S. Code § 30122(b): A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

In the same December 13, 2024, Letter of Interpretation, NHTSA clarified that the “make inoperative” provision of 49 U.S. Code § 30122(b) prohibits manufacturers, distributors, dealers, rental companies, and repair businesses from installing auxiliary vehicle flashing lights by stating:

*After carefully considering your letter, we reaffirm our previous interpretations that, under current law, “emergency warning lights” may not be installed as original equipment and that persons subject to the make inoperative provision of the Safety Act may not legally install the lamps as original or aftermarket equipment.*

Therefore, the installation of auxiliary vehicle flashing lights is illegal.

## Light Emitting Diode Flashing Lights

The switch to Light Emitting Diode (“LED”) flashing lights has exacerbated the hazards and dangers of using auxiliary flashing lights on vehicles. LEDs emit an excessively intense light, and the digital nature of the flashing makes LEDs more hazardous than many other types of flashing lights.

The Food and Drug Administration (“FDA”) is mandated by 21 U.S.C. 360ii to establish and maintain a liaison with NHTSA to test and evaluate LED flashing lights but has failed to do so. As a result, the FDA has not published performance standards for LED flashing lights to ensure the health, safety, and civil rights of the public.

The metric for the intensity of light that shines directly into a person’s eye is called “luminance”. Government agencies have failed to set any limits on luminance to ensure eye safety.

*“NHTSA interprets the impairment provision to prohibit auxiliary lamps that are so bright as to obscure or distract from a vehicle’s required lamps.”<sup>2</sup>*

LED flashing lights are so bright that they undoubtedly obscure or distract from the vehicle’s required lamps, as shown in the example images below.

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<sup>2</sup> <https://www.nhtsa.gov/interpretations/571108-ama-schaye-front-color-changing-light>





## Safety Research

In the December 13, 2024, Letter of Interpretation, NHTSA wrote:

*“NHTSA has long believed that flashing amber lighting can unduly divert driver attention and cause confusion among drivers, even among those who have seen them before.”*

The study titled “Effects of Emergency Vehicle Lighting Characteristics on Driver Perception and Behavior” showed that high intensity lights impair vision.

*“The results indicate that higher intensity lights were judged consistently as more glaring...”<sup>3</sup>*

Thus, high intensity flashing lights such as those that use LED technology will impair the effectiveness of federally required lighting equipment. High intensity flashing lights create a safety hazard.

An April 17, 2024, research paper titled “High visual salience of alert signals can lead to a counterintuitive increase of reaction times”, demonstrates exactly what occurs when a public entity uses auxiliary LED flashing lights.

*“However, increasing visual salience did not yield similar benefits: instead, it increased the time between fixating the alert and responding, as high-salience alerts interfered with alert-task execution.”<sup>4</sup>*

Flashing lights are dangerous and increase the risk of injury or death because the flashing lights “interfere with alert-task execution”. In other words, exactly when the driver needs to be alert and

<sup>3</sup> <https://www.respondersafety.com/Download.aspx?DownloadId=f31a5f73-7b95-44c7-bd25-1e4cdfce5229>

<sup>4</sup> <https://www.nature.com/articles/s41598-024-58953-4>

avoid the vehicle with the flashing lights, the use of the flashing lights interferes with vision and cognitive functioning, leading to an increased risk of crash.

## Health Impacts

The research article titled “Accidental macular injury from short-term exposure to a handheld high-intensity LED light” details an eye injury from exposure to a flashing Light Emitting Diode (“LED”).<sup>5</sup>

The research article titled, “Visually sensitive seizures: An updated review by the Epilepsy Foundation” describes how flashing lights can trigger seizures for individuals with epilepsy.

*“Images with flashes brighter than 20 candelas/m<sup>2</sup> at 3-60 (particularly 15-20) Hz occupying at least 10 to 25% of the visual field are a risk, as are red color flashes or oscillating stripes.”<sup>6</sup>*

An in-depth March 2, 2025, research article titled International Guidelines for Photosensitive Epilepsy: Gap Analysis and Recommendations confirms that any change in luminance of greater than 20 cd/m<sup>2</sup> creates a risk of seizure, and that the color red is particularly hazardous.<sup>7</sup> Auxiliary LED flashing lights are hundreds or thousands of times more intense than 20 cd/m<sup>2</sup> which is why individuals with epilepsy, migraines, photophobia, and autism have reported epileptic and non-epileptic seizures from exposure to LED flashing lights.

The intensity of a directly-viewed light source is measured by the metric “luminance” in candela per square meter or nit. The human eye has a bi-convex lens that recreates the luminance on the retina, which in turn sends intensity signals to the brain. The following are typical luminance levels for reference:

**Comfort level:** 1-100 cd/m<sup>2</sup>

**Epilepsy seizure risk threshold for flashing lights:** 20 cd/m<sup>2</sup>

**Typical discomfort level:** 1,500-2,400 cd/m<sup>2</sup>

**Photophobia discomfort level:** 100-1,000 cd/m<sup>2</sup>

**Maximum tolerance level:** 10,000-50,000 cd/m<sup>2</sup>

**Auxiliary LED vehicle flashing lights:** 1,500-100,000 cd/m<sup>2</sup>

LED flashing lights on vehicles are likely to trigger seizures due to their high luminance.

Movies that use flashing lights sometimes post warnings, such as the one below from *Incredibles 2*.<sup>8</sup> Thus, it is well known that flashing lights can trigger seizures in individuals who are photosensitive, and yet cities are using auxiliary LED flashing lights on city vehicles, even though these lights are illegal and known to be a significant health risk.

<sup>5</sup> <https://pmc.ncbi.nlm.nih.gov/articles/PMC10404656/>

<sup>6</sup> <https://onlinelibrary.wiley.com/doi/10.1111/epi.17175>

<sup>7</sup> <https://pmc.ncbi.nlm.nih.gov/articles/PMC11872230/>

<sup>8</sup> <https://www.wbaltv.com/article/theaters-post-warnings-after-disney-says-incredibles-2-scene-could-cause-seizures/21600147>

**WARNING: This video  
contains flashing lights**

Many reports of neurological and psychological trauma have been reported to the FDA from exposure to LED flashing lights. (Appendix A).

## Conclusion

Due to lack of enforcement, auxiliary flashing lights on vehicles are everywhere. However, unless and until the federal government modifies federal regulations, auxiliary flashing lights on vehicles are prohibited. Given the knowledge that auxiliary flashing lights create a health and safety hazard and given that they are illegal under federal law, all government agencies and businesses should direct staff to immediately refrain from using auxiliary vehicle flashing lights.

August 3, 2025

## Appendix A – NHTSA Letters of Interpretation

49 C.F.R. § 571.108(S6.2.1): No additional lamp, reflective device, or other motor vehicle equipment is permitted to be installed that impairs the effectiveness of lighting equipment required by this standard.

**December 13, 2024** - "*NHTSA has long believed that flashing amber lighting can unduly divert driver attention and cause confusion among drivers, even among those who have seen them before.*"<sup>9</sup> – Amber auxiliary flashing lights are illegal.

**December 13, 2024** - "*Flashing amber lighting, except for turn signal lamps, is not “an established lighting scheme.”* within the context of FMVSS No. 108."<sup>10</sup> – Amber auxiliary amber flashing lights are illegal.

**December 13, 2024** - "*The use of flashing amber lights is not sufficiently established and standardized to avoid unduly diverting driver attention or causing confusion. Thus, we continue to believe these lights impair required lighting equipment.*"<sup>11</sup> - Amber auxiliary amber flashing lights are illegal.

**December 13, 2024** – "*Therefore, because the “emergency warning lights” are not steady burning, they would not comply with FMVSS No. 108 and would impair required lighting.*"<sup>12</sup>- [Nothing in this letter is intended to conflict with our interpretation, stated in our May 2, 2003, Letter to Lt. Col. Steve Flaherty, that deference to states applies to “the installation and use of emergency lighting devices on [the state’s] vehicles.”] – Emergency warning lights that flash on vehicles such as on tow trucks, utility vehicles, and private ambulances are illegal. However, this letter muddles this situation with municipally-owned and state-owned emergency vehicles such as police, fire, and ambulance and conflicts with NHTSA’s September 9, 2019 interpretation that all auxiliary flashing lights are illegal.

**September 9, 2019** - "*Moreover, NHTSA continues to believe that flashing auxiliary lamps would impair the effectiveness of required lamps by distracting or confusing other road users.*"<sup>13</sup> – All auxiliary flashing lamps are illegal.

**September 9, 2019** – "*NHTSA interprets the impairment provision to prohibit auxiliary lamps that are so bright as to obscure or distract from a vehicle’s required lamps.*"<sup>14</sup> – The extreme luminance of LED flashing lights and the reports of vision impairment by the public demonstrate that all LED auxiliary flashing lights are illegal.

<sup>9</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

<sup>10</sup> <https://www.nhtsa.gov/interpretations/ncc-241023-001tsei-tima-letter-interpretation-571108-flashing-amber-lights-12-13>

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**May 2, 2003** – *“We see no reason to question the judgment of the State in allowing strobe lights on fire vehicles, if such legislation is enacted in Virginia.”*<sup>15</sup> – This opinion is superseded in 2019 and 2024, when NHTSA states that all auxiliary flashing lights impair the effectiveness of required lamps. The 2001 and 2003 letters are an anomaly when compared with all other NHTSA letters, where NHTSA states repeatedly that NHTSA’s core belief is that auxiliary flashing lights pose a risk to safety.

**July 3, 2001** - *“We want to allow States to install and use strobe lights on unmarked vehicles yet we do not think it in the interest of safety to allow the general public to do the same on virtually identical vehicles.”*<sup>16</sup> – This statement is contradictory to nearly all of NHTSA’s other Letters of Interpretation.

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April 16, 2025 – Cincinnati, OH – Other

Today's automobiles, specifically SUVs made by Toyota, Hyundai, Kia, Honda and Acura have headlights that are WAY TOO BRIGHT!! When these vehicles come at you on a dark road, their light spread is literally blinding and especially on a rainy night, this has almost caused me to have a crash several times and always I'll see spots for several minutes after encountering one of these cars. I've noticed vision problems as well as increased frequency of headaches as of late and I have changed nothing in my lifestyle other than having greater exposure to these lights. And we shouldn't forget that the light bars on police vehicles and tow trucks are also retina-searing bright. We can see a flashing incandescent beacon on one of these cars from plenty of distance at night. This needs to be a class action suit against the auto manufacturers or the lamp manufacturers.

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I am only 20 years old but I struggle so much with driving at night or on a cloudy day. Basically every single car (since they all have LEDs) blinds me as they drive past. Just looking at the side of the road doesn't work for me. It is impossible for me to see the road or anything else when there is a car with LEDs. It comes at me from cars driving towards me, through the rear view mirror, and the side windows. Also, the flashing LED lights for ambulances/police cars at intersections make me feel nauseous and like I am going to get a migraine. I have suffered from migraines for many years, so I am light sensitive. However, the LED lights are the worst thing for me during the day and night time.

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January 12, 2025 – Glenside, PA – Photophobia

I had a recent situation in the movie theater while watching "Wicked" that sent me into a blackout paranoid state; after leaving the theater, the oncoming auto lights/traffic lights/police lights just exacerbated the situation. I have no memory of the evening. I went to the emergency room in the morning and blood/urine tests showed no drugs or alcohol. I do not have epilepsy and have no medical

conditions. I have been using candlelight and red lights at night in my home since 2020 and rarely drive (2018 car with only 17,000 miles). I had a similar event about two years ago after watching a TV series that used flashing strobe lights. I have a PhD and have been looking for research and case studies on the topic of the health consequences of light/flashing lights at night. My goal is to 1) figure out what happened to me, and 2) help others who would just attribute this to being “crazy.” Thank you!

November 25, 2024 – Vacaville, CA – Autism

I was driving East on E. Monte Vista Ave. when I struck by the LED flashing lights on an RRFB. Instead of the RRFB making me stop, I start yelling fuck, fuck, fuck, fuck, fuck, fuck as I tilted my head down and drove straight through to escape the LED assault and save my life.

November 22, 2024 – Springfield, MO – Migraine

After a TBI years ago, I am now a migraine sufferer. I cannot look at the flashing or strobe lights without instant pain. It has been so hard to safely pass by emergency vehicles as flashing and LEDs both blind and cause instant splitting pain. Trying to get by a wreck or incident is really really tough while you are trying go around and not hit people or cars in the road. I have literally stopped my car in the middle of the road at night, even on a curve, multiple times because I was so blind I could not see the road, the other vehicle – nothing! It’s as if someone suddenly blindfolded me while driving. How are people navigating this terrible issue? Tonight was a little darker than usual, without a moon, and I was struggling to repeatedly get blinded/see on a long 2-lane rural road. Going over a curvy set of river bridges with rails was terrifying, leaving me blinded for a moment trying to navigate curves. Halfway through the 7-mile trip, the repeated brightness moved to migraine, nausea, and fear I was going to wreck. I was literally wondering what my future holds if I can’t drive to see my kids, or even get home from work safely after dark because of these lights. It feels like no one cares – even insurance companies. They HAVE to know; they drive too! Even LED Christmas lights are too much when flashing. We also been blinded by directly placed LED garage lights on houses recently. It’s like a direct police spotlight at a T-intersection. I can’t see if anyone is coming to the left, due to one homeowners LED beacon staying trained right in my eyes. Tonight, I also made a right turn at a 4-way stop. Because of being blinded mid-turn, I couldn’t tell how close the car waiting to turn was in front of me as I rounded to the next road. Not only did I fear hitting the other car right in the door I heard a sickening crunch as my back tire fell off the road edge and hit much further than the wheel rim.

November 14, 2024 – Mangonui, New Zealand – Migraine

Swimming in a remote lake, 200m from road access, when a car pulled up flashing the red LED tail lights. I felt immediately nauseated and blacked out with brief loss of consciousness for a few seconds. I came quickly to and swam with difficulty back to the shore having developed blurred vision, pain at the occiput, numb left side of face and left arm (hemiplegic migraine).

October 12, 2024 – Esparto, CA – Autism

I was driving behind a vehicle when it suddenly pulled to the side of the road. Coming towards us was an ambulance with LED flashing lights. I felt like I was electrocuted and was going to go unconscious. I instantly closed my eyes and stopped my car. After a few seconds, a car behind me honked, and when I opened my eyes, the ambulance was already gone. Now I’m suffering the psychological after-effects.

October 11, 2024 – Yolo County, CA – Autism

I was driving East on a County road in the day when a vehicle came towards me with intense, rapidly flashing amber LED lights. I felt panic rushing in and put my arms up to block the assault. Since I now couldn’t see the road, I came to a full stop. Then somebody honked a horn. I moved my arms, and saw that the lead truck had passed, but a wide-load mobile home on a truck was inches from the left side of my car. These LED flashing lights are a menace and violation of our civil rights. My anxiety ran high for 30 minutes after the encounter.

September 16, 2024 – Nashville, TN – Other

I have Mast Cell Activation Syndrome. My body produces an allergic reaction to things that wouldn't normally cause anyone else a problem, including LED lights. My brain interprets the rapid flashing light as if there's something attacking my body, resulting in what we call a "histamine dump." Histamine dumps lower blood pressure. But given I have a condition known as Postural Orthostatic Tachycardia Syndrome, which already gives me low blood pressure, the combination of this condition with MCAS histamine dump causes me to go into hypovolemic shock. It causes the worst pain I've ever known, where my brain is screaming for oxygen and nutrients, fading in and out of being hyperaware of how much pain I'm in only to dissociate from it as a way to protect myself from the mental anguish of that pain. I've almost died from this several times. For almost a decade, I exhibited symptoms of hypovolemic shock at the end of nearly every day, only to be told it was a cervicogenic headache or migraine. Now that I'm diagnosed, I'm on a medication to treat it. But that medication isn't strong enough to counteract the effects of extremely bright LED headlights, let alone LED streetlights. Every time I leave the house at night, I get sick. I'm already disabled my multiple chronic conditions. My life is already limited. I don't know how to live life unable to even go outside at night.

September 14, 2024 – Vacaville, CA – Autism

I was driving at dusk when a fire truck or ambulance suddenly appeared with LED lights flashing. I immediately threw both of my arms in front of my face and hit the brakes to stop the car. I thought that this might be the end of my life. The LED flashing lights are sheer terror and I can't function. After the fire truck/ambulance passed by, I felt like I was going to cry from the emotional trauma. My brain then feels like it's dead even hours later.

August 28, 2024 – Esparto, CA – Autism

I was driving and encountered a utility truck with both sets of headlights turned on. I turned on my non-LED high beams in the hope that the driver would turn off the high beams. Instead, the driver turned on amber LED flashing lights that incapacitated me. I was unable to proceed forward and stopped my car. Instead of driving off, the driver of the utility truck stopped also. My vision and cognitive abilities were severely impaired, with panic setting in. Finally, I started to inch forward, and then so did the utility truck. It seems like the driver was doing it on purpose. After he left, I spent several minutes simply stopped in the middle of the road, trying to breathe and let the panic subside.

August 6, 2024 – Winters, CA – Autism

I was driving on a country road in the daytime. Over 1 mile ahead of me was a utility truck on the side of the road with amber LED flashing lights. For the entire mile, I was either glued to these LED flashing lights, or forcing myself to look away. As I approached the truck, the LED strobe lights were overwhelming and I could not see through the lights. I stopped my car in the road and started to panic. I put my hand in front of my right eye, and then tried to use my left eye to navigate around the truck. It is impossible for me to think or see with these LED flashing lights blasting me and I suffer extreme anxiety and panic.

August 3, 2024 – Onsted, MI – Astigmatism

Led headlights (low beams) , white led running lights, LED brake lights, emergency flashing Led lights and Led streetlights have adversely affected my ability to drive safely. I do not drive at dusk or Night anymore unless I have to ( for work). I live in Michigan with snow covered roads and the most dangerous aspect of driving is being blasted by someone's Led headlights. I cannot use my rear view or side mirrors anymore because of the vehicles behind me blinding my visions with their Led headlights. I have to constantly shield my eyes to be able to see the road due to oncoming Led headlights. I love nature and now my ability to enjoy the Night skies is ruined because of bright Led lights on at night. I never had any problems driving at night prior to Led headlights. Now driving has become a nightmare and a very

dangerous task. Led headlights should be banned or at least some type of regulation regarding luminance and Kelvin temperature. Many Led low beams are much brighter than halogen highbeams. In addition to the dangers of led headlights being dangerous, they cause me headaches and eye pain. It's common knowledge that blue light is detrimental to the health of humans and don't understand why this type of lighting is being used in the public.

August 3, 2024 – Fountain Hills, AZ – None

Apparently the plan to get drivers off the road is working with the BLINDING LED vehicle headlights. The police LED flashing lights are SUPER BLINDING.

August 3, 2024 – Fort Collins, CO – Other

At 74 and having cataract replaced and it is nearly impossible to drive safely with the blinding blue white glaring LED lights. It is so distracting and frustrating I loose my concentration to drive properly. The lights seem to bounce up and down with a blinding flashing impact. Even police vehicles red and blue flashing on the side of the road are so blinding it is difficult and unsafe to go around them. I can't see what is in front of me. The contrast from dark to blinding flashing lights is too much to see what's in front of me.

August 1, 2024 – London, United Kingdom – Other

Council lawnmower with flashing LED lights drove past me while I was walking along the road. I felt immediate severe head pain, nausea and discoordinated, and fell into the roadside ditch. I then vomited, climbed out with blurred vision and pounding head.

July 9, 2024 – Mangonui, New Zealand – Migraine

While traveling in the passenger seat along the state highway felt sudden thunderclap pain to the left occiput passing three flashing LED lights on three diggers repairing the road. My left eye began to stream, my speech became slurred, then dysaesthesia to the left side of my face and arm occurred. I felt as though I had a concussion. The symptoms of this hemiplegic migraine event resolved gradually over a three day period.

June 1, 2024 – Fairfield, CA – Autism

During the day, I was driving a vehicle on a freeway when I struck by an LED flashing light from a bicycle on a parallel road. I reactively closed my eyes and then suffered a seizure reaction, which I would describe as like an electrical shock and loss of cognitive functioning and vision. I then had to emotionally fight off a panic attack.

4/21/2024 – Beaverton, OR – Autism

LED flashing lights cause me to suffer severe anxiety, panic attacks, and fear.

ITEM 9.B.

ODPA MEMORANDUM TITLED "DRAFT LANGUAGE FOR A  
PROPOSED BPD ARREST QUOTA POLICY"



## MEMORANDUM

Date: August 29, 2025  
 To: Honorable Members of the Police Accountability Board  
 From: Arrest Quota Policy Subcommittee  
 Subject: Draft Language for a Proposed BPD Arrest Quota Policy

The purpose of this memorandum is to provide the PAB with an initial draft proposal for language addressing the prohibition of arrest quotas, either to be incorporated into an existing BPD policy or established as a standalone policy.

### Background:

The Arrest Quota Subcommittee, comprised of Board Members Edmonds and Wells, was established to develop language for a proposed policy on arrest quotas for adoption by the Berkeley Police Department.<sup>1</sup> The recommendation for the implementation of an arrest quota policy was proposed within the PAB's 2024 report titled, "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board."<sup>2</sup> The language included in this memorandum was initially proposed by Deputy Chief Tate and Sergeant Rafferty and is now being presented to the PAB for review, input, and guidance.

### Proposed Language:

The following language is being proposed for inclusion within BPD Policy 401 "Fair and Impartial Policing" or as a starting point for its own stand alone policy:

"This department does not establish or enforce quotas for arrests or citations and shall not use the number of arrests or citations issued by a peace officer or parking enforcement employee as the sole criterion for promotion, demotion, dismissal, or the earning of any benefit provided by

<sup>1</sup> May 21, 2025 PAB Regular Meeting Minutes: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT\\_2025-05-21\\_Regular\\_Meeting\\_Minutes\\_Updated.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT_2025-05-21_Regular_Meeting_Minutes_Updated.pdf)

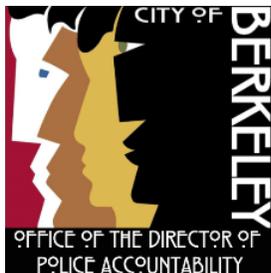
<sup>2</sup> 2024 PAB Report "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board:" <https://berkeleyca.gov/safety-health/police-accountability/police-accountability-board-reports>

the agency. Enforcement activity may be considered as one component of a comprehensive performance assessment that includes professionalism, judgment, community engagement, training, and adherence to department policy. This policy is consistent with California Vehicle Code §§ 41600–41603 and Government Code § 8207.”

ITEM 9.C.

ODPA MEMORANDUM TITLED "ODPA STAFF REPORTS  
SUBMITTED FOR PRESENTATION AT THE SEPTEMBER 30 CITY  
COUNCIL MEETING" AND RESPECTIVE ATTACHMENTS

Internal



## MEMORANDUM

Date: August 29, 2025

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel A. Aguilar, Director of Police Accountability (DPA) *HAA*  
Jose Murillo, ODPa Policy Analyst

Subject: ODPa staff reports submitted for presentation at the September 30 City Council meeting

The purpose of this memorandum is to inform the PAB that the ODPa has submitted two staff reports to the City Council for presentation at its September 30, 2025 Regular Meeting. These reports formally set forth two recommendations that were previously included in the ODPa's complementary (or companion) report<sup>1</sup>, submitted as part of the PAB's report titled "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board."<sup>2</sup>

### Background:

The Companion Report (August 29, 2024) was prepared by the Office of the Director of Police Accountability to supplement the Police Accountability Board's independent investigation into the Berkeley Police Department texting scandal involving the Downtown Task Force and Bike Unit. The report provides additional analysis and recommendations addressing arrest quotas, racially biased and inappropriate

<sup>1</sup> 2024 ODPa Companion Report to the PAB's Report "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board" :

[https://berkeleyca.gov/sites/default/files/documents/3.%202024-08-29%20ODPA%20Companion%20Report\\_FINAL.pdf](https://berkeleyca.gov/sites/default/files/documents/3.%202024-08-29%20ODPA%20Companion%20Report_FINAL.pdf)

<sup>2</sup> 2024 PAB Report "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board": [https://berkeleyca.gov/sites/default/files/documents/2024-08-29%20BPD%20Texting%20Offenses\\_PAB%20Investigation%20Report\\_Final.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-08-29%20BPD%20Texting%20Offenses_PAB%20Investigation%20Report_Final.pdf)

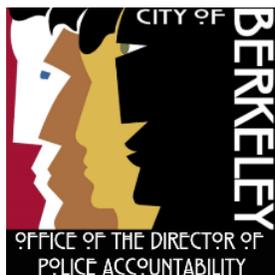
communications, and cultural issues within the unit that raised serious concerns about accountability, oversight, and public trust.

While the Board's investigation focused on the facts and policies underlying the incident, the Companion Report highlights broader systemic reforms needed to prevent similar issues in the future. The document offers targeted recommendations for the City Council, City Manager, and the community. No specific action or acknowledgement was taken by either the Council's Public Safety Committee or full Council when the report was presented. To that end, the Office has decided to resubmit for reconsideration. In its recent submission to Council, the Office has presented two specific recommendations for consideration:

- Adopt a resolution calling on the California State Legislature to Amend Government Code Section 12519 to allow heads of civilian oversight agencies to directly request investigative assistance from the Attorney General's Office;
- Adopt a resolution directing the City Manager to work with the City Attorney's Office to establish a communications policy, corresponding training, and compliance mechanisms to ensure impartiality and neutrality during the pendency of an active personnel investigations

**Recommendation:**

No action is required by the PAB at this time; however, the ODPa is providing the Board with an opportunity to submit comments on the ODPa's recommendations prior to the Council meeting, and any response from the PAB will be forwarded as supplemental material for the Council item.



ACTION CALENDAR  
September 30<sup>th</sup>, 2025

To: Honorable Mayor and Members of the City Council

From: Hansel A. Aguilar, Director of Police Accountability

Submitted by: Hansel A. Aguilar, Director of Police Accountability

Subject: Resolution calling on the California State Legislature to Amend Government Code Section 12519 to allow heads of civilian oversight agencies to directly request investigative assistance from the Attorney General's office.

RECOMMENDATION

Adopt a Resolution calling on the California State Legislature to Amend Government Code Section 12519 to allow heads of civilian oversight agencies to directly request investigative assistance from the Attorney General's office.

SUMMARY

The ODPa Companion Report (August 29, 2024) was prepared by the Office of the Director of Police Accountability to supplement the Police Accountability Board's (PAB) independent investigation into the Berkeley Police Department (BPD) texting scandal involving the Downtown Task Force and Bike Unit. The report provides additional analysis and recommendations in response to findings of arrest quotas, racially biased and inappropriate communications, and cultural issues within the unit that raised serious concerns about accountability, oversight, and public trust. While the PAB's investigation focused on the facts and policies underlying the incident, this companion report highlights broader systemic reforms necessary to prevent similar issues in the future.

The document offers targeted recommendations for the City Council, City Manager, and the community. For Council, it calls for legislative advocacy to expand civilian oversight authority, investment in real-time audits of body-worn camera footage, clear protocols for handling complaints against the Chief of Police, stronger neutrality in communications during investigations, expanded public data reporting, and a critical review of specialized units. It also proposes a formal City apology to acknowledge the harm caused and reaffirm a commitment to fair and impartial policing. Additional recommendations urge the City Manager to tighten oversight of city-issued devices and create an Alcohol Rehabilitation Leave Procedure to support officers' wellness. Finally, the report encourages the community to pursue Charter amendments granting the ODPa/PAB independent legal counsel and the authority to initiate misconduct investigations proactively. Collectively, these measures are aimed at strengthening oversight, improving accountability systems, and rebuilding public trust in policing.

### FISCAL IMPACTS OF RECOMMENDATION

Implementation of the recommendations would not require additional funding beyond existing resources; the fiscal impact would be limited to staff time necessary to carry out the proposed actions.

### CURRENT SITUATION AND ITS EFFECTS

Civilian oversight agencies are essential to promoting transparency and accountability in law enforcement, yet their impact is often constrained by limited authority and resources. Under the current Government Code section 12519, only a narrow group of officials can request investigative support from the Attorney General's office—excluding civilian oversight leaders, who are frequently at the forefront of addressing public concerns about police misconduct. Expanding this authority to include the heads of civilian oversight agencies would strengthen their ability to carry out their responsibilities without undue obstacles, particularly in cases where investigations face resistance or require specialized expertise.

The findings in the Berkeley Police Department Texting Offences: An Independent Investigation by the Police Accountability Board highlight the significant challenges oversight bodies encounter in accessing critical information, such as the Swanson report and other internal records. These barriers underscore the urgent need for legal authority that enables oversight agencies to secure the cooperation and resources necessary for examining serious allegations of misconduct. Allowing civilian oversight leaders to request assistance from the Attorney General would not only reaffirm the Legislature's commitment to transparency and accountability but also ensure that oversight investigations are thorough, effective, and independent.

In addition to investigative authority, the ability to seek formal legal opinions from the Attorney General carries unique value. Attorney General opinions provide authoritative, statewide interpretations of law that help ensure consistency across jurisdictions. For civilian oversight agencies, access to such opinions would provide critical guidance in complex or contested areas of law, reducing uncertainty and strengthening the legal foundation of their work. This would also reduce reliance on local interpretations that may be constrained by conflicts of interest or limited resources. Allowing oversight directors to request Attorney General opinions would therefore not only empower investigations but also help standardize best practices, clarify statutory ambiguities, and enhance public confidence that oversight decisions rest on sound legal footing.

### BACKGROUND

In accordance with City Charter Section 125(17)(a), the City of Berkeley Police Accountability Board's Subcommittee on Policy and Practices conducted an examination of policies, practices, and procedures within the Berkeley Police Department (BPD) concerning the Downtown Task Force (DTF) and Bike Unit allegations.

A Special Meeting of the PAB was convened on November 15, 2022, where the Board voted to establish a subcommittee to review all policies and practices related to the

allegations made by former BPD Officer Corey Shedoudy, which had been made public on November 10, 2022. The subcommittee, initially chaired by former Board Member Cheryl Owens and later by Board Member Kitty Calavita following Owens' resignation, also included PAB Chair John (Chip) Moore. The allegations involved racist text messages, bias against the unhoused, and pressure to meet arrest quotas, with the Sergeant of the DTF implicated.

This report aimed not only to highlight deficiencies in BPD policies and practices but also to offer concrete recommendations for addressing these issues. Achieving these goals required the collective efforts of the PAB, BPD leadership, the City Manager, and the City Council. Through this report, the PAB reaffirmed its commitment to collaboration, justice, fairness, trust, and community safety.

In support of these objectives, the ODPa submitted a complementary report to provide additional information related to the PAB's findings, in accordance with Chapter VI, Section C.1. of the City of Berkeley's Commissioner's Manual.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental sustainability or climate impacts were identified in connection with this recommendation.

#### RATIONALE FOR RECOMMENDATION

Civilian oversight agencies are critical to ensuring transparency and accountability in law enforcement, but their effectiveness is often constrained by limited authority and resources. Current law (Government Code Section 12519) does not allow civilian oversight leaders to request investigative assistance from the Attorney General, even when their work faces resistance or requires specialized expertise. Amending this section to include oversight agency heads would strengthen their ability to conduct thorough investigations, remove barriers to accessing critical information, and affirm the Legislature's commitment to independent oversight, transparency, and progressive policing reforms.

#### CONTACT PERSON

Hansel A. Aguilar, Director of Police Accountability, (510) 981-4960

Attachments:

1: Resolution

## RESOLUTION NO. ##,###-N.S.

CALLING ON THE CALIFORNIA STATE LEGISLATURE TO AMEND GOVERNMENT CODE SECTION 12519 TO ALLOW HEADS OF CIVILIAN OVERSIGHT AGENCIES TO DIRECTLY REQUEST INVESTIGATIVE ASSISTANCE FROM THE ATTORNEY GENERAL'S OFFICE.

WHEREAS, the Police Accountability Board (PAB) conducted an independent investigation into allegations of arrest quotas, inappropriate communications, and accountability failures within the Berkeley Police Department's Downtown Task Force and Bike Unit; and

WHEREAS, the Office of the Director of Police Accountability (ODPA), as Secretary to the PAB and Charter officer, submitted a Companion Report on August 29, 2024, which highlighted the systemic barriers that hinder civilian oversight investigations, including lack of authority to directly request legal opinions or assistance from the Attorney General's Office; and

WHEREAS, under current law, Government Code Section 12519 only authorizes certain enumerated officials (e.g., legislators, statewide constitutional officers, county counsel, district attorneys, and sheriffs) to obtain written legal opinions from the Attorney General, excluding heads of civilian oversight agencies; and

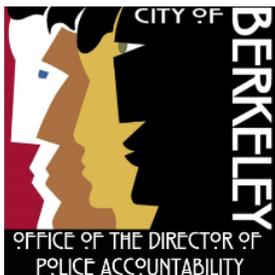
WHEREAS, Attorney General opinions provide authoritative statewide interpretations of law that promote consistency, reduce uncertainty, and ensure that sensitive matters are guided by impartial legal standards; and extending this authority to civilian oversight leaders would give them the tools necessary to carry out their mandates with legal clarity and independence; and

WHEREAS, civilian oversight agencies are tasked with promoting transparency, accountability, and community trust in law enforcement, yet their ability to carry out these responsibilities effectively is constrained by statutory limitations; and

WHEREAS, Senator Jesse Arreguin, former Mayor of Berkeley and current Chair of the California State Senate Public Safety Committee, is uniquely positioned to understand the significance of this reform and to advance legislation that strengthens civilian oversight; and

WHEREAS, amending Government Code Section 12519 to include heads of civilian oversight agencies as authorized requestors would affirm the Legislature's commitment to strengthening civilian oversight, improving accountability systems, and ensuring independent investigations of serious allegations of misconduct.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that The City of Berkeley calls upon the California State Legislature to amend Government Code Section 12519 to explicitly authorize the heads of civilian oversight agencies to directly request investigative opinions and assistance from the Attorney General's Office.



ACTION CALENDAR  
September 30<sup>th</sup>, 2025

To: Honorable Mayor and Members of the City Council

From: Hansel A. Aguilar, Director of Police Accountability

Submitted by: Hansel A. Aguilar, Director of Police Accountability

Subject: Resolution Directing the City Manager to Work with the City Attorney's Office to Establish a Communications Policy, Corresponding Training, and Compliance Mechanisms to Ensure Impartiality and Neutrality During the Pendency of an Active Personnel Investigation

RECOMMENDATION

Adopt a Resolution directing the City Manager to work with the City Attorney's Office to establish a communications policy, corresponding training, and compliance mechanisms to ensure impartiality and neutrality during the pendency of an active personnel investigation.

SUMMARY

The ODPa Companion Report (August 29, 2024) was prepared to supplement the Police Accountability Board's (PAB) independent investigation into the Berkeley Police Department's (BPD) texting scandal involving the Downtown Task Force and Bike Unit. The companion report identified not only issues of quotas and inappropriate communications, but also systemic gaps in how the City communicates during personnel investigations, particularly when high-ranking officials are implicated.

The report highlighted an incident in November 2022 when the City Manager emailed the Mayor and Council about the allegations, affirming that they were "disturbing" but also stating she saw "no reason to pause" an item concerning the appointment of the Chief of Police. This communication, issued during the early stages of an active investigation, raised serious concerns of bias and the appearance of prejudgment.

To address this problem, the ODPa recommends that the City Council direct the City Manager, in consultation with the City Attorney's Office, to establish a communications policy, paired with training and compliance mechanisms, to safeguard impartiality and neutrality during ongoing investigations.

FISCAL IMPACTS OF RECOMMENDATION

The development of the policy and training will primarily require staff time within the City Manager's Office, the City Attorney's Office, and ODPa. Additional fiscal impacts may

arise from implementing compliance training, but these can be absorbed within existing resources.

### CURRENT SITUATION AND ITS EFFECTS

Civilian oversight systems rely on impartial processes that inspire confidence from both the public and department employees. When senior City officials make public or semi-public statements suggesting the outcome of an investigation before it is complete, this risk:

- Prejudicing the investigation and undermining its integrity.
- Eroding public confidence in the fairness and neutrality of the process.
- Creating potential legal challenges or due process concerns for the subject(s) of the investigation.

The Companion Report identified that the City Manager's early statements about the Chief of Police's knowledge of texting allegations risked creating the appearance of bias. Without clear policy guidance and training, such missteps could recur, undermining both oversight and public trust.

This recommendation is consistent with best practices identified in:

- The State Bar of California's Rules of Professional Conduct (Rule 3.6, Trial Publicity), which caution against extrajudicial statements that may materially prejudice adjudicative proceedings.
- The U.S. Department of Justice's "Standards and Guidelines for Internal Affairs", which emphasize neutrality and impartiality in communications during pending investigations.

By implementing a communications policy rooted in these principles, Berkeley can set clear standards for how officials handle sensitive information during personnel investigations.

### BACKGROUND

In accordance with City Charter Section 125(17)(a), the City of Berkeley Police Accountability Board's Subcommittee on Policy and Practices conducted an examination of policies, practices, and procedures within the Berkeley Police Department (BPD) concerning the Downtown Task Force (DTF) and Bike Unit allegations.

A Special Meeting of the PAB was convened on November 15, 2022, where the Board voted to establish a subcommittee to review all policies and practices related to the allegations made by former BPD Officer Corey Shedoudy, which had been made public on November 10, 2022. The subcommittee, initially chaired by former Board Member Cheryl Owens and later by Board Member Kitty Calavita following Owens' resignation, also included PAB Chair John (Chip) Moore. The allegations involved racist text

messages, bias against the unhoused, and pressure to meet arrest quotas, with the Sergeant of the DTF implicated.

This report aimed not only to highlight deficiencies in BPD policies and practices but also to offer concrete recommendations for addressing these issues. Achieving these goals required the collective efforts of the PAB, BPD leadership, the City Manager, and the City Council. Through this report, the PAB reaffirmed its commitment to collaboration, justice, fairness, trust, and community safety.

In support of these objectives, the ODPa submitted a complementary report to provide additional information related to the PAB's findings, in accordance with Chapter VI, Section C.1. of the City of Berkeley's Commissioner's Manual.

In summary:

- On November 10, 2022, former BPD Officer Corey Shedoudy disclosed a series of text messages alleging arrest quotas and misconduct within the Downtown Task Force.
- On November 11, 2022, the City Manager emailed the Mayor and Council, classifying the allegations as “disturbing” but affirming there was “no reason to pause” the pending appointment of the Chief of Police.
- The ODPa Companion Report (Aug. 29, 2024) analyzed this incident and concluded that such statements, absent an independent inquiry, risk undermining impartiality in investigations.
- Since the incident, the City currently does not have a policy to guide these communications.

This context demonstrates the urgent need for formal guidance on communications during investigations to prevent prejudicial or biased statements and maintain the integrity of City processes.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental sustainability or climate impacts were identified in connection with this recommendation.

### RATIONALE FOR RECOMMENDATION

Adopting this resolution will:

- Codify best practices for impartial communications during active investigations.
- Provide training to ensure City officials understand the boundaries of appropriate communication.
- Establish compliance mechanisms that protect investigative integrity and public trust.

### CONTACT PERSON

Hansel A. Aguilar, Director of Police Accountability, (510) 981-4960

Attachments:  
1: Resolution

## RESOLUTION NO. ##,###-N.S.

DIRECTING THE CITY MANAGER TO WORK WITH THE CITY ATTORNEY'S OFFICE TO ESTABLISH A COMMUNICATIONS POLICY, CORRESPONDING TRAINING, AND COMPLIANCE MECHANISMS TO ENSURE IMPARTIALITY AND NEUTRALITY DURING THE PENDENCY OF AN ACTIVE PERSONNEL INVESTIGATION

WHEREAS, on November 10, 2022, allegations of misconduct involving the Berkeley Police Department's Downtown Task Force and Bike Unit were brought forward by a former officer, leading to independent and external investigations into the existence of arrest quotas and inappropriate communications; and

WHEREAS, during the pendency of those investigations, the City Manager issued communications to the Mayor and City Council that, while acknowledging the allegations as "disturbing," also prematurely expressed confidence in the subject of the investigation, thereby raising concerns of bias and prejudgment; and

WHEREAS, the Office of the Director of Police Accountability (ODPA) submitted a Companion Report to the Police Accountability Board's Independent Investigation on August 29, 2024, which identified this communication as an example of how the absence of clear guidelines may undermine impartiality, investigative integrity, and public trust; and

WHEREAS, impartiality and neutrality are essential to maintaining the integrity of active personnel investigations, and best practices — including the State Bar of California's Rules of Professional Conduct, Rule 3.6 (Trial Publicity) and the U.S. Department of Justice's "Standards and Guidelines for Internal Affairs" — underscore the need for caution in public communications that could prejudice investigative outcomes; and

WHEREAS, the City of Berkeley is committed to ensuring its investigative and oversight systems operate with the highest standards of fairness, transparency, and accountability.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that:

1. The City Manager is directed to work with the City Attorney's Office to establish a communications policy that provides clear guidelines for how City officials communicate during the pendency of an active personnel investigation.
2. The City Manager is further directed to develop and implement corresponding training for City officials on this policy to ensure compliance and understanding of their obligations.
3. The policy shall include compliance mechanisms designed to safeguard impartiality and neutrality, preserve investigative integrity, and protect public confidence in the City's processes.
4. The City Manager shall return to Council with the proposed communications policy for review and approval.

OFF AGENDA ITEM 1

LEGISLATIVE UPDATES RELEVANT TO THE PAB'S WORK

Public



## MEMORANDUM

**Date:** August 29, 2025  
**To:** Honorable Members of the Police Accountability Board  
**From:** Hansel Aguilar, Director of Police Accountability *HA*  
 Jose Murillo, ODPa Policy Analyst  
**Subject:** Legislative Updates

The purpose of this memorandum is to provide a legislative update to the PAB, enabling them to stay informed about changes in local, state, and federal law.

### State Legislative Updates<sup>1</sup>

The following bills relevant to the PAB's work have been introduced in the state of California:

NAME OF LEGISLATION	STATUS	SUMMARY/PURPOSE
<a href="#"><u>SB 385 “Peace Officers”</u></a>	<i>(Engrossed) 2025-07-17 - Ordered to third reading.</i>	This bill, SB 385, requires peace officers hired on or after January 1, 2029, to obtain a modern policing degree or a bachelor's or advanced degree from an accredited institution within 36 months of employment. It builds on existing certification and education requirements and takes effect immediately as an urgency statute.
<a href="#"><u>AB1178 “Peace Officers”</u></a>	<i>(Engrossed) 2025-06-30 - In committee: Referred to APPR. suspense file.</i>	This bill expands redaction requirements under the California Public Records Act, requiring law enforcement agencies to remove identifying details of undercover

<sup>1</sup> <https://post.ca.gov/Status-of-Current-Legislation>

<b><u>Confidentiality of Records</u></b>		officers, task force members, and those with verified death threats. It imposes a state-mandated local program and includes legislative findings justifying access limitations.
<b><u>SB707 “Open Meetings: Meeting and teleconference requirements”</u></b>	<i>(Engrossed) 2025-08-20 - August 20 set for first hearing. Placed on APPR. suspense file.</i>	SB 707 expands public meeting access by requiring remote participation, interpretation services, and multilingual agendas for local government bodies until 2030. It revises teleconferencing rules and extends provisions for emergencies and just cause absences.
<b><u>SB-627 “Law enforcement: masks.”</u></b>	<i>From committee with author's amendments. Read second time and amended. Re-referred to Com. on PUB. S.</i>	SB 627 would make it a misdemeanor for law enforcement officers to wear masks or personal disguises while interacting with the public, with certain exceptions, and expresses intent to allow protective gear for SWAT officers and require visible identification on uniforms.
<b><u>SB524 “Law Enforcement Agencies: Artificial Intelligence”</u></b>	<i>(Engrossed) 2025-08-20 - August 20 set for first hearing. Placed on APPR. suspense file.</i>	This bill requires law enforcement agencies to adopt policies on the use of AI in preparing official reports, including disclosure statements, officer signatures, retention of AI-generated drafts, and audit trails. It also restricts vendors from using agency data and provides for state reimbursement of mandated local costs.

Additional legislation pertaining to public safety in the state of California may be monitored here: <https://legiscan.com/CA/legislation>.

The BPD’s Policy and Training Bureau prepared a legislative update summarizing legal changes affecting law enforcement in 2024 and 2025. Based on the California Peace Officers' Association's 2024 and 2025 Legislative Update Manual, it highlights key updates from both years but does not cover every legislative change. Unless otherwise noted, the changes outlined in the updates took affect January 1, 2024 or January 1, 2025. The following BPD Policies include the legislative updates:

SOURCE	LINK
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<b>BPD Policy 1505 “2024 Legislative Update”</b>	<a href="https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1037">https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1037</a>
<b>BPD Policy 1506 “2025 Legislative Update”</b>	<a href="https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1041">https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1041</a>
<b>The California Peace Officers Association also provides a yearly California Legislative and Legal Digest.</b>	<a href="https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf">https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf</a>

### Lexipol Policy Updates

No changes have been made to BPD policies since the PAB’s last meeting on July 9, 2025.

### City of Berkeley Council Meeting Updates

The following items being considered by the City Council are relevant to the PAB:

City Council Regular Meeting of September 9, 2025<sup>2</sup>

Item No.	Item Description	Recommendation
15	<a href="#"><u>Ordinance Amendment Relating to the Memorandum of Understanding (MOU) Compendium; Amending Berkeley Municipal Code Section 2.04.190</u></a>	Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 2.04.190 to revise the required frequency of City Council approval for agreements, understandings, or policies between the Berkeley Police Department and other law enforcement agencies or private organizations.
24	<a href="#"><u>Contract: Flock Safety for Condor Fixed Surveillance Cameras</u></a>	Adopt a Resolution authorizing the City Manager to execute a contract

<sup>2</sup> City Council Regular Meeting eAgenda September 9, 2025: <https://berkeleyca.gov/city-council-regular-meeting-eagenda-july-8-2025>

		and any amendments with Flock Safety to provide Condor fixed surveillance cameras and services for an initial four-year term, in an amount not to exceed \$310,000, with an option to extend the contract for one additional three-year term, for a total contract amount not to exceed \$600,000.
25	<a href="#"><u>Proposed Sanctuary City Ordinance – Council Referral; Adding Berkeley Municipal Code Chapter 13.114</u></a>	Adopt a Sanctuary City Ordinance (BMC 13.114) to codify the City’s sanctuary policy into the Berkeley Municipal Code.

OFF AGENDA ITEM 2  
POLICY REVIEW STATUS UPDATES

Updated August 29, 2025



## POLICY REVIEW STATUS REPORT

### Guiding Authority

*Section 125(3)(a)(1) and Section 125(17)(a) of the Berkeley City Charter<sup>1</sup>*

### Case Load Overview

As of August 29, 2025, the Police Accountability Board (PAB) has eight (8) open policy reviews. There has been one (1) new policy review submitted to the PAB since the last regular meeting on July 9, 2025.

**Note:** ODPa staff is evaluating expected completion timelines in line with PAB priorities for 2025. Additionally, staff is reviewing 2025 legislative updates for alignment and their impacts on the open policy reviews.

<b>Policy Review Number</b>	2023-PR-0007 <sup>2</sup>
<b>Policy Topic</b>	Restraining Orders & Interactions with the Elderly
<b>Relevant Policy</b>	BPD Policy 313 "Senior and Disability Victimization" BPD Policy 430 "Civil Disputes"
<b>Status</b>	Review In Progress; Records Obtained
<b>Date Presented to the PAB</b>	7/24/2024
<b>Anticipated Completion</b>	March 5, 2025
<b>Assigned To</b>	ODPA
<b>Summary</b>	

<sup>1</sup> Berkeley City Charter: <https://berkeley.municipal.codes/Charter/125>

<sup>2</sup> On December 11, 2024, the PAB voted to divide this review in two parts. The first looking at the issue of restraining orders and the second into BPD's interactions with the elderly. The PAB was presented with part one on January 8, 2025.

Updated August 29, 2025

The complainant reports ongoing disturbances, harassment, and restraining order violations by a neighbor's caretaker, raising concerns about enforcement by the Berkeley Police Department. This policy review will examine BPD's handling of interactions with elder adults and its practices regarding restraining orders, as the complainant indicates possible misunderstandings of order terms. Despite multiple encounters and existing orders, the complainant reports continued issues with enforcement.

#### Activity Report

The ODPa held a focus group at the North Berkeley Senior Center on February 7, 2025. The information collected is currently being reviewed for potential inclusion in the final report. In addition, ODPa staff is examining historical complaint data for cases with similarities to the incident that prompted this policy review, in order to identify any practices or patterns that may be addressed in the report. Additional requests for records to further inform this review are anticipated.

<b>Policy Review Number</b>	2023-PR-0008
<b>Policy Topic</b>	Off-Duty Conduct
<b>Relevant Policy</b>	BPD Policy 321 "Standard of Conduct" BPD Policy 401 "Fair and Impartial Policing" BPD Policy 344 "Off-Duty Law Enforcement Actions"
<b>Status</b>	Review in Progress; Assigned to Policy Review Subcommittee
<b>Date Presented to the PAB</b>	10/11/2023
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB – Assigned to Policy Review Subcommittee

#### Summary

The complainant expresses concerns about off-duty police officers exhibiting harmful behavior and recommends improving the Police Accountability Board's oversight of off-duty conduct, including anti-racist hiring practices, stronger discipline measures, and increased transparency on racial profiling. They highlighted relevant policies and noted that the PAB is considering a subcommittee dedicated to off-duty law enforcement actions.

#### Activity Report

Evaluating for potential referrals to subcommittee or PAB members.

<b>Policy Review Number</b>	2024-PR-0003
<b>Policy Topic</b>	Computer Voice Stress Analyzers (CVSA)
<b>Relevant Policy</b>	BPD Policy 807 "Computer Voice Stress Examinations"

Updated August 29, 2025

<b>Status</b>	Completed
<b>Date Presented to the PAB</b>	5/22/2024
<b>Anticipated Completion</b>	Completed; to be presented on September 17, 2025.
<b>Assigned To</b>	PAB
<b>Summary</b>	
The policy review examines the Berkeley Police Department's use of CVSA and evaluates the effectiveness of this technology.	
<b>Activity Report</b>	
The report has been finalized and will be presented at the PAB's September 17th Regular Meeting.	

<b>Policy Review Number</b>	2024-PR-0004
<b>Policy Topic</b>	Artificial Intelligence (AI) Assisted Report Writing
<b>Relevant Policy</b>	BPD Policy 323 "Report Preparation"
<b>Status</b>	Completed
<b>Date Presented to the PAB</b>	6/5/2024
<b>Anticipated Completion</b>	Completed; to be presented on September 17, 2025.
<b>Assigned To</b>	ODPA
<b>Summary</b>	
This review aims to assess the feasibility of AI-assisted report writing and identify potential benefits and concerns associated with its use by law enforcement.	
<b>Activity Report</b>	
The report has been finalized and will be presented at the PAB's September 17 <sup>th</sup> Regular Meeting.	

<b>Policy Review Number</b>	2024-PR-0008
<b>Policy Topic</b>	Records Retention
<b>Relevant Policy</b>	BPD Policy 804 "Record Maintenance and Release"
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	1/8/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	ODPA
<b>Summary</b>	
The ODPA received a complaint regarding BPD's inability to provide past officer rosters in response to a PRA request, as the records are no longer maintained. The complainant recommended that BPD adopt a policy to retain and provide such rosters upon request.	

Updated August 29, 2025

### Activity Report

ODPA staff are currently reviewing relevant materials in preparation for a future presentation to the PAB.

<b>Policy Review Number</b>	2025-PR-0001
<b>Policy Topic</b>	Contact Between Complaint Subject Officer and Complainant During Calls for Service
<b>Relevant Policy</b>	BPD Policy 1004 "Anti-Retaliation" BPD Policy 1010 "Personnel Complaints"
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	02/19/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB Member w/ Support of ODPA

### Summary

The Complainant reported two interactions with BPD in January 2025, involving officers who were either subjects of their prior complaints to the PAB or involved in other litigation. They expressed concerns about potential retaliation or bias, believing they should not interact with officers they had previously filed complaints against.

### Activity Report

Board Member Calavita updated the PAB during its regular meeting on April 23, 2025. Policy Analyst Murillo and Board Member Calavita will collaborate to draft potential language and consult with BPD about feasibility and any potential concerns. ODPA Staff drafted and forwarded that request on May 12, 2025 and is awaiting a response.

<b>Policy Review Number</b>	2025-PR-0004
<b>Policy Topic</b>	Public Recording of Police Activity
<b>Relevant Policy</b>	BPD Policy 426 "Public Recording of Police Activity"
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	6/25/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB Member w/ Support of ODPA

### Summary

The Complainant expressed concerns with the Berkeley Police Department's General Order D-2, "Public Recording of Police Activity," (now BPD Policy 426), following an incident on June 4, 2025, in which they allege they were physically prevented by three officers from observing and documenting police activity at 8th and Harrison Street. The Complainant argues that the policy fails to clearly affirm the First Amendment rights of

Updated August 29, 2025

onlookers and does not adequately direct officers to limit the use of “police lines” to situations where such restrictions are necessary for officer safety or to protect the integrity of an investigation.

#### Activity Report

Board Member Calavita reviewed BPD Policy 426 and identified sections that may merit closer examination. ODPa staff is providing support by comparing policies from other jurisdictions and researching best practices.

<b>Policy Review Number</b>	2025-PR-0005
<b>Policy Topic</b>	Encampment Clearing Operations
<b>Relevant Policy</b>	Practice and procedure review
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	6/25/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB Subcommittee

#### Summary

The Complainant raised concerns about a June 4, 2025, multi-department operation at an encampment on 8th and Harrison Streets, alleging excessive force, improper use of less-lethal weapons, suppression of public observation, and lack of notice to residents in violation of due process. They further argued that accountability should extend beyond individual officers to command staff who design and authorize operational plans, and recommended the PAB adopt policies creating a new category of misconduct for such leadership decisions.

#### Activity Report

The subcommittee has met and identified preliminary data and information needs. ODPa staff collected the requested materials and provided them to the subcommittee.

*Updated August 29, 2025*

The following policy reviews have been temporarily suspended and will be reconsidered at the 2026 PAB Planning Session

<b>Policy Review No.</b>	<b>Topic</b>
2487	Involuntary Injections / Medical Care
2488	Use of Force During Arrest
17	Mental Health Response Use of Force
2023-PR-0006	Parking Enforcement Practices
2023-PR-0009	Use of Force – Handcuffing
2024-PR-0005	Downtown Ambassador Program
2024-PR-0006	Specialized Care Unit

OFF AGENDA ITEM 3  
LIST OF PENDING PAB REQUEST



## MEMORANDUM

**Date:** August 28, 2025  
**To:** Honorable Members Police Accountability Board (PAB)  
**From:** Hansel Aguilar, Director of Police Accountability (DPA) *HA*  
 Jose Murillo, ODPa Policy Analyst  
 Syed Mehdi, ODPa Data Analyst  
**Subject:** Summary of PAB Requests (October 2024 - August 2025)

This memorandum summarizes ten requests that remain active made by the Police Accountability Board (PAB) during eighteen meetings held between October 9, 2024, and August 7, 2025. Seventeen of which were PAB Regular Meetings and one was a PAB Special Meeting. The distribution of requests by stakeholder is as follows: Five requests were directed to the Office of the Director of Police Accountability (ODPA), two to the Berkeley Police Department (BPD), one to the Mayor's Office, and one to the City Clerk's Office. This consolidated log supports clearer tracking, coordination, and follow-up by all relevant parties.

### PAB Requests (Oct 2024 – August 2025)

No.	Meeting Date/Link	Request to	Request (Time Stamp)	Status/Note
1	1/8/2025 PAB Regular Meeting Recording: <a href="https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH">https://youtu.be/56WiTDQB_jo?si=Go90zuEmVgEhNRjH</a>  1/8/2025 PAB Regular Meeting Minutes: <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/Final%202025-01-08%20Regular%20MeetingMinutes.pdf</a>	ODPA/ BPD	The PAB requested that staff collaborate with the Berkeley Police Department prior to establishing a public-facing webpage containing information on Restraining Orders and related resources. (1:20:33 - 1:21:30)	Open - This request is still active.

<b>2</b>	<p>2/19/2025 PAB Regular Meeting Recording: <a href="https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL">https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL</a></p> <p>2/19/2025 PAB Regular Meeting Minutes: <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	ODPA	<p>The PAB requested that staff explore whether other agencies have comparable policies on conflicts of interest when officers are responding to calls made by a party who has filed a complaint against them. (1:11:30 - 1:12:08)</p>	<p>Open – In relation to 2025-PR-0001</p> <p>This request is still active because the Board requested this as part of the policy review.</p>
<b>3</b>	<p>2/19/2025 PAB Regular Meeting Recording: <a href="https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL">https://youtu.be/9jOYSyLtZc0?si=JtMEtoSvHbkYpDWL</a></p> <p>2/19/2025 PAB Regular Meeting Minutes: <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-02-19%20Regular%20Meeting%20Minutes.v2.pdf</a></p>	Mayor's Office	<p>The PAB requested that staff coordinate with the Mayor's Office to obtain advance notice of meeting agendas. (43:20 - 44:30)</p>	<p>Open - This request is still active.</p>
<b>4</b>	<p>5/07/2025 PAB Regular Meeting Recording:</p>	City Clerk's Office	<p>The PAB requests the opportunity to provide input on the records retention schedule.</p>	<p>Open – This request is still active</p>

	<p><a href="https://www.youtube.com/watch?v=pL5VhNQDU60">https://www.youtube.com/watch?v=pL5VhNQDU60</a></p> <p>5/07/2025 PAB Regular Meeting Draft Minutes:  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-05-07%20Regular%20Meeting%20Minutes.v2.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202025-05-07%20Regular%20Meeting%20Minutes.v2.pdf</a></p>		<p>The ODPa is asked to contact the City Clerk's Office to determine the status, scope, and timeline of the project, including whether any consultants or departments will be involved, in order to identify opportunities for engagement.</p> <p>(22:19 – 24:41)</p>	<p>Link to Memorandum Titled "Records Retention Schedule of the BPD, PAB and ODPa":</p> <p><a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-05-07%20PAB%20Regular%20Meeting%20Packet%20-%20SUPP%201.pdf#page=3">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-05-07%20PAB%20Regular%20Meeting%20Packet%20-%20SUPP%201.pdf#page=3</a></p>
5	<p>5/21/2025 PAB Regular Meeting Recording:  <a href="https://www.youtube.com/watch?v=mFBeoH6IXWl">https://www.youtube.com/watch?v=mFBeoH6IXWl</a></p> <p>5/21/2025 PAB Regular Meeting Draft Minutes:  <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT_2025-05-21_Regular_Meeting_Minutes_Updated.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT_2025-05-21_Regular_Meeting_Minutes_Updated.pdf</a></p>	ODPA	<p>The PAB requests that ODPa staff look into department retention schedules of nearby jurisdictions, what NACOLE recommendations constitute.</p> <p>(1:37:21-1:37:54)</p>	Open – This request is still active.
6	<p>6/11/2025 PAB Regular Meeting Recording:  <a href="https://youtu.be/CxY0KXhZVvk?si=8Fs4ENY5h7jFYR4O">https://youtu.be/CxY0KXhZVvk?si=8Fs4ENY5h7jFYR4O</a></p> <p>6/11/2025 PAB Regular Meeting Draft Minutes:</p>	ODPA, BPD	<p>The PAB requests that the Director, in collaboration with the Chair and Vice Chair, work with the BPD to develop a joint recommendation aimed at eliminating duplicative reporting requirements already</p>	<p>Completed – This Request has been delivered.</p> <p>Link to Joint Letter:  <a href="https://berkeleyca.gov/sites/default/files/documents/7.18.25_-_PAB_Chair">https://berkeleyca.gov/sites/default/files/documents/7.18.25_-_PAB_Chair</a></p>

	<a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT_June_11_2025_PAB_Reg_Meeting_Minutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT June 11 2025 PAB Reg Meeting Minutes.pdf</a>		addressed by state law (AB 481), while preserving key elements of City ordinance 2.100.050 that provide for oversight. The joint recommendation should be brought back to the full Board before the Public Safety Policy Committee's July meeting.  (2:32:52 – 2:38:07)	<a href="#">Ltr to PSPC Controlled Equipment wAttachments%28Final%29 %281%29.pdf</a>  Link to BMC 2.100.050: <a href="https://berkeley.municipal.codes/BMC/2.100.050">https://berkeley.municipal.codes/BMC/2.100.050</a>  Link to AB 481: <a href="https://leginfo.lature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB481">https://leginfo.lature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB481</a>
7	7/09/2025 PAB Regular Meeting Recording: <a href="https://youtu.be/NXeICScvsPo?si=3j_sine12aD-0Ttwu">https://youtu.be/NXeICScvsPo?si=3j_sine12aD-0Ttwu</a>  7/09/2025 PAB Regular Meeting Draft Minutes: <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT-2025-07-09_Regular_Meeting_Minutes.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT-2025-07-09 Regular Meeting Minutes.pdf</a>	ODPA	The PAB requests that the Office of the Director of Police Accountability gather all materials, including Video Recordings, Data Requests, and Policy Research, concerning the 8th & Harrison Encampment Sweep that occurred on June 4, 2025.	Completed – Staff distributed all materials to the PAB via Dropbox:
8	8/07/2025 PAB Regular Meeting Recording: <a href="https://youtu.be/Co3zdZshodU?si=PxoU9YBCCcgs7E_t">https://youtu.be/Co3zdZshodU?si=PxoU9YBCCcgs7E_t</a>  8/07/2025 PAB Regular Meeting Draft Minutes: <a href="https://berkeleyca.gov/">https://berkeleyca.gov/</a>	ODPA	The PAB requests that ODPA staff make technical corrections and additional edits consistent with the Board's discussion, as deemed appropriate by the Director. These edits include changes to language and wording, stylistic	Open – ODPA Staff implemented changes; submission to City Council is still pending and is being coordinated by the Mayor's office.

	<a href="#"><u>sites/default/files/legislative-body-meeting-minutes/DRAFT 2025-08-07 PAB Special Meeting Minutes.pdf</u></a>		adjustments, and revisions to the data aggregation process. Once the changes are implemented, ODPA will submit the Annual Report to the City Council.	
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